



EAST CONTRA  
COSTA COUNTY  
HABITAT  
CONSERVANCY

City of Brentwood

City of Clayton

City of Oakley

City of Pittsburg

Contra Costa County

# GOVERNING BOARD

## REGULAR MEETING

Monday, October 27, 2014  
2:00 p.m.

City of Oakley  
Oakley City Hall, Council Chambers  
3231 Main Street  
Oakley, CA 94561

## AGENDA

**2:00 p.m. Convene meeting**

**Introductions.**

### **Adjourn to Closed Session**

#### **CS1) Conference with Legal Counsel – Existing Litigation (Gov. Code, § 54956.9(d)(1))**

Discovery Builders, Inc. v. City of Brentwood, California; City Council of the City of Brentwood, et al.; Contra Costa County Superior Court, Case No. N13-1781

#### **CS2) Conference with Real Property Negotiators**

Property: APNs 020-171-001 and 020-172-004; 8831 Byron Highway, Knightsen, CA.

Agency Negotiators: John Kopchik, Abigail Fateman and Joanne Chiu  
Negotiating Parties: Conservancy, East Bay Regional Park District and Ronald Nunn Family LP.

Under negotiation: Price and payment terms

#### **CS3) Conference with Real Property Negotiators**

Property: APNs 080-070-003 and 080-070-005; Morgan Territory Road, Clayton, CA

Agency Negotiators: John Kopchik, Abigail Fateman and Joanne Chiu  
Negotiating Parties: Conservancy, East Bay Regional Park District, and David F. Viera, Barbara J. Perley and Mary Delameter, as Trustees of the Lucy E. Viera Trust U/D 10/5/84 and Barbara J. Perley, Trustee of the Barbara J. Perley Recovable Trust

Under Negotiation: Price and payment terms

**CS4) Conference with Real Property Negotiators**

Property: APN 075-170-002; Nortonville Road, Contra Costa County, CA

Agency Negotiators: John Kopchik, Abigail Fateman and Joanne Chiu

Negotiating Parties: Conservancy, East Bay Regional Park District, and Alfred L. Marks, III

Under Negotiation: Price and payment terms

**Reconvene Open Session (No earlier than 2:30)**

- 1) **Report on any actions taken in Closed Session.**
- 2) **Public Comment on items that are not on the agenda (public comment on items on the agenda will be taken with each agenda item.)**
- 3) **Consider APPROVING the Meeting Record from the East Contra Costa County Habitat Conservancy (“Conservancy”) Governing Board Meeting of August 25, 2014.**
- 4) **Consider RESCHEDULING the December 2014 Governing Board meeting to a new date and time. (Abigail Fateman)**
- 5) **Consider the following actions related to extending take coverage to San Pablo Bay Company LLC for the Shell Pipeline North 20 ILI Repair Project. (Joanne Chiu)**
  - A. **AUTHORIZE staff to file a Notice of Exemption for this Board action with the County Clerk.**
  - B. **AUTHORIZE Interim Executive Director to execute a First Amendment to the Participating Special Entity Agreement with San Pablo Bay Company LLC for take coverage of the Shell Pipeline North 20 ILI Repair Project, as further described in Addendum 1.0 to the Planning Survey Report, provided the Wildlife Agencies concur with the First Amendment.**
- 6) **Consider the following actions related to extending take coverage to Pacific Gas and Electric Company for the Contra Costa-Moraga 230 kV Transmission Line Reconductoring Project. (Joanne Chiu)**
  - A) **AUTHORIZE staff to file a Notice of Determination for this Board action with the County Clerk.**
  - B) **AUTHORIZE Interim Executive Director to execute a First Amendment to the Participating Special Entity Agreement with PG&E for take coverage of the Contra Costa-Moraga 230 kV Transmission Line Reconductoring Project, as further described in Addendum 1.0 to the Planning Survey Report, provided the Wildlife Agencies concur with the First Amendment.**
- 7) **Consider REVIEWING the draft report entitled Assessment of Plan Effects on California Environmental Quality Act (CEQA) Species, consider REFERRING this matter to the Public Advisory Committee (PAC) and circulate the Report to the Conservancy stakeholders and Wildlife Agency staff for additional review and**

**recommendation; and consider DIRECTING staff to report back to the Governing Board. (Abigail Fateman)**

- 8) Consider AUTHORIZING staff to send a letter to the City of Antioch regarding available match funding for the Section 6 Planning Grant for an Antioch HCP/NCCP and consider AUTHORIZING staff to expend up to \$25,000 of the available funds for immediate work on this matter. (Abigail Fateman)**
- 9) Consider AUTHORIZING staff to execute a funding agreement with the East Bay Regional Park District (“EBRPD”), one state grant agreement and one federal subgrant agreement with the California Wildlife Conservation Board (WCB) for state and federal funds for acquisition of the Viera/Perley Property (APNs 080-070-003 and 080-070-005); Morgan Territory Road, Clayton, California. (Abigail Fateman)**
- 10) Consider ACCEPTING an update on the Hess Creek Channel Restoration Project. (Abigail Fateman)**
- 11) Consider PRESENTING Hank Stratford with a certificate honoring his many years of service and leadership for the East Contra Costa County Habitat Conservancy. (Abigail Fateman)**
- 12) Adjourn. Next Governing Board meeting on December 22, 2014.**

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If you have questions about this agenda or desire additional meeting materials, you may contact Maureen Parkes of the Contra Costa County Department of Conservation and Development at 925-674-7203.

*The Conservancy will provide reasonable accommodation for persons with disabilities planning to participate in this meeting who contact staff at least 24 hours before the meeting.*

**EAST CONTRA COSTA COUNTY  
HABITAT CONSERVANCY**

**DATE:** October 27, 2014  
**TO:** Governing Board  
**FROM:** Conservancy Staff  
**SUBJECT:** Governing Board Meeting Record for August 25, 2014

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**RECOMMENDATION**

**APPROVE the Meeting Record from the East Contra Costa County Habitat Conservancy (“Conservancy”) Governing Board Meeting of August 25, 2014.**

**DISCUSSION**

Please find the draft meeting record attached.

CONTINUED ON ATTACHMENT: <u>Yes</u>	APPROVED AS RECOMMENDED: _____
ACTION OF BOARD ON: <u>October 27, 2014</u>	
OTHER: _____	
<b><u>VOTE OF BOARD MEMBERS</u></b>	
<u>    </u> UNANIMOUS	
AYES: _____	
NOES: _____	
ABSENT: _____	
ABSTAIN: _____	
	I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF AN ACTION TAKEN AND ENTERED ON THE MEETING RECORD OF THE CONSERVANCY GOVERNING BOARD ON THE DATE SHOWN.
	ATTESTED
	<u>John Kopchik, INTERIM SECRETARY OF THE EAST CONTRA COSTA COUNTY HABITAT CONSERVANCY</u>
	BY: _____, DEPUTY

**Draft Meeting Record**

East Contra Costa County Habitat Conservancy  
 Monday, August 25, 2014  
 City of Pittsburg

The Board convened the meeting at 2:00 p.m.

**1) Introductions.**

***Governing Board members in attendance were:***

Joel Bryant	City Council, City of Brentwood
Hank Stratford	City Council, City of Clayton
Mary Piepho	Contra Costa County Board of Supervisors (Conservancy Chair)
Randy Pope	City Council, City of Oakley (Conservancy Vice Chair)
Salvatore Evola	City Council, City of Pittsburg

***Other attendees (who signed the sign-in sheet):***

Trixie Martelino	Pacific Gas & Electric Company
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***Conservancy Staff and consultants in attendance were:***

John Kopchik	Conservancy Staff
Abigail Fateman	Conservancy Staff
Joanne Chiu	Conservancy Staff
Erin McDermott	Conservancy Staff
Chris Beale	Conservancy Legal Counsel

John Kopchik updated the Governing Board members on staff changes as a result of Krystal Hinojosa’s departure. John Kopchik announced Erin McDermott and Joanne Chiu will be working on the permitting program.

- 2) **Public Comment on items that are not on the agenda (public comment on items on the agenda will be taken with each agenda item).** There were no public comments.
- 3) **Consider APPROVING the Meeting Record from the East Contra Costa County Habitat Conservancy (“Conservancy”) Governing Board Meeting of June 23, 2014.** The meeting record was approved. (5-0: Piepho, Pope, Stratford, Evola, Bryant)
- 4) **Consider APPROVING Resolution No. 2014-02 related to Conservancy grant applications which authorize Conservancy staff to:**
  - a) **Submit grant applications to the California Department of Fish and Wildlife (CDFW) for the Natural Community Conservation Planning (NCCP) Local Assistance Grant (LAG) program (total amount: \$245,000); and**
  - b) **Enter into grant agreements to accept grant funds if approved by CDFW.****(Abigail Fateman)**

Ms. Fateman provided an overview of the staff report. Items 4a and 4b were approved as recommended. (5-0: Piepho, Pope, Stratford, Evola, Bryant)

- 5) **Consider the following items related to Conservancy finances:**
- a) **AUTHORIZE staff to execute an amendment to the existing contract with Nomad Ecology, LLC, to extend the payment limit by \$60,000 from \$65,000 to \$125,000.**
  - b) **AUTHORIZE staff to execute an amendment to the existing contract with H.T. Harvey and Associates to extend the payment limit by \$20,000 from \$88,000 to \$108,000.**

**(Abigail Fateman)**

Ms. Fateman provided an overview of the staff report. Items 5a and 5b were approved as recommended. (5-0: Piepho, Pope, Stratford, Evola, Bryant)

- 6) **Consider ACCEPTING an update on the Hess Creek Channel Restoration Project.**  
**(Abigail Fateman)**

Ms. Fateman provided an update on the Hess Creek Channel Restoration Project.

- 7) **Consider the following actions related to extending take coverage to Pacific Gas and Electric Company (PG&E) for the PG&E Contra Costa-Moraga 230 Kilovolt Transmission Line Reconductoring Project.**

- a) **AUTHORIZE staff to file a Notice of Determination for this Board action with the County Clerk.**
- b) **AUTHORIZE Executive Director to execute a Participating Special Entity (“PSE”) Agreement with PG&E for take coverage of the Contra Costa-Moraga 230 kV Transmission Line Reconductoring Project, as further described in Exhibit 1, the Planning Survey Report (“PSR”), provided the Wildlife Agencies concur with the PSE Agreement.**

**(Joanne Chiu)**

Ms. Chiu provided an overview of the staff report. Ms. Chiu, Mr. Kopchik and Ms. Martelino, Senior Lead Planner for PG&E responded to questions from the Governing Board members regarding the fee calculations for the project. Items 7a and 7b were approved as recommended. (5-0: Piepho, Pope, Stratford, Evola, Bryant)

**The Board announced adjournment to Closed Session.**

- 8) **Report on any actions taken in Closed Session.** There were no actions to report.
- 9) **Adjourned to the next Governing Board meeting on October 27, 2014.**
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**EAST CONTRA COSTA COUNTY  
HABITAT CONSERVANCY**

**DATE:** October 27, 2014  
**TO:** Governing Board  
**FROM:** Conservancy Staff  
**SUBJECT:** December meeting date for the Conservancy Governing Board

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**RECOMMENDATION**

**RESCHEDULE the December 2014 Governing Board meeting to a new date and time.**

**DISCUSSION**

The Joint Powers Agreement (JPA) forming the Conservancy requires the Governing Board to set a regular meeting schedule. That schedule is set on an annual basis to reflect the availability of Board Members for that year.

In February 2014, the Conservancy Board set a meeting schedule for the 4<sup>th</sup> Monday of the even numbered months. The current adopted meeting schedule has the next Conservancy Board meeting as December 22<sup>nd</sup>, in the City of Clayton. At the February 2014 meeting, the Board agreed to consider rescheduling the December 22<sup>nd</sup> meeting to a date earlier in the month.

CONTINUED ON ATTACHMENT: No  
ACTION OF BOARD ON: October 27, 2014 APPROVED AS RECOMMENDED: \_\_\_\_\_  
OTHER: \_\_\_\_\_

**VOTE OF BOARD MEMBERS**

\_\_\_ UNANIMOUS  
AYES: \_\_\_\_\_  
NOES: \_\_\_\_\_  
ABSENT: \_\_\_\_\_  
ABSTAIN: \_\_\_\_\_

I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF AN ACTION TAKEN AND ENTERED ON THE MEETING RECORD OF THE CONSERVANCY GOVERNING BOARD ON THE DATE SHOWN.

ATTESTED \_\_\_\_\_  
*John Kopchik, INTERIM SECRETARY OF THE EAST CONTRA COSTA COUNTY HABITAT CONSERVANCY*

BY: \_\_\_\_\_, DEPUTY

**EAST CONTRA COSTA COUNTY  
HABITAT CONSERVANCY**

**DATE:** October 27, 2014  
**TO:** Governing Board  
**FROM:** Conservancy Staff (Joanne Chiu)  
**SUBJECT:** Agreement Amendment with the San Pablo Bay Pipeline Company LLC

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**RECOMMENDATION**

Consider the following actions related to extending take coverage to San Pablo Bay Company LLC for the Shell Pipeline North 20 ILI Repair Project.

- A. **AUTHORIZE** staff to file a Notice of Exemption for this Board action with the County Clerk.
  
- B. **AUTHORIZE** Interim Executive Director to execute a First Amendment to the Participating Special Entity Agreement with San Pablo Bay Company LLC for take coverage of the Shell Pipeline North 20 ILI Repair Project, as further described in Addendum 1.0 to the Planning Survey Report, provided the Wildlife Agencies concur with the First Amendment.

**DISCUSSION**

ITEM (A). California Environmental Quality Act (CEQA): The Board’s decision to authorize the Interim Executive Director to execute a First Amendment to the Participating Special Entity (“PSE”) Agreement and to extend take authorization under the First Amendment to San Pablo Bay Pipeline Company LLC (“Applicant”) for the Shell Pipeline North 20 ILI Repair Project (“Shell Project” or “Project”) is exempt from CEQA pursuant to a statutory exemption for emergency repairs to public service facilities (Pub. Resources Code section 21080 (b)(2); Cal. Code Regs., tit. 14, §15269 (b)).

CONTINUED ON ATTACHMENT: <u>Yes</u>	APPROVED AS RECOMMENDED: _____
ACTION OF BOARD ON: <u>October 27, 2014</u>	
OTHER: _____	
<b><u>VOTE OF BOARD MEMBERS</u></b>	
<input type="checkbox"/> UNANIMOUS	
<input type="checkbox"/> AYES: _____	
<input type="checkbox"/> NOES: _____	
<input type="checkbox"/> ABSENT: _____	
<input type="checkbox"/> ABSTAIN: _____	
	I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF AN ACTION TAKEN AND ENTERED ON THE MEETING RECORD OF THE CONSERVANCY GOVERNING BOARD ON THE DATE SHOWN.
	ATTESTED _____ <i>John Kopchik, INTERIM SECRETARY OF THE EAST CONTRA COSTA COUNTY HABITAT CONSERVANCY</i>
	BY: _____, DEPUTY

**ITEM (B).** At the June 23, 2014 meeting, the Board authorized staff to execute a PSE Agreement with the Applicant for take coverage of the Shell Pipeline North 20 ILI Repair Project. The Project consisted of the excavation and repair of Shell’s 20-inch crude oil pipeline at Station No. 8312+75. The repair site was identified on the north side of the Contra Costa Water District (“CCWD”) access road within the Black Diamond Mines Regional Preserve. On July 29, 2014 the PSE Agreement was fully executed. The Applicant paid all mitigation fees, Contribution to Recovery, and administrative fees, as required in the PSE Agreement, and was issued a Certificate of Inclusion.

The repair project began shortly after receiving take coverage. Once the pipeline was exposed, the contractor determined that the section of pipe that needed to be repaired was farther east on the south side of the CCWD access road. On August 14, 2014, the Applicant notified the Conservancy regarding the necessary changes in the project footprint. To ensure public safety and to comply with requirements set by the State Fire Marshal, the Applicant was mandated to complete the repair immediately. The Wildlife Agencies were also informed of the project status.

The Applicant requested take coverage for the areas not originally anticipated to be included in the project footprint. The Applicant was given authorization to complete the repair with the understanding that they would seek retroactive incidental take coverage for the differences in the project repair site. To address the changes in the project description and associated impacts and mitigation, the PSE Agreement is required to be modified by way of the proposed First Amendment.

Changes to project impacts are reflected in the table below and in more detail in Addendum 1.0, to be incorporated as Exhibit 1 to the PSE Agreement. An originally permitted area for stockpiling soil was never utilized. Therefore, even with the increase of the repair site area, the overall impact area was reduced.

Land Cover Type	Originally Permitted Temporary Impacts (acres)	Actual Temporary Impacts (acres)
Annual Grassland	0.1	0.116
Ruderal	0.065	-
<b>TOTAL</b>	<b>0.165</b>	<b>0.116</b>

The table below summarizes the HCP/NCCP fees for the project:

	Development Fee	Contribution to Recovery (CTR)	TOTAL
<b>Original PSE Agreement</b>	\$3,998.62	\$3,988.62	<b>\$7,997.24</b>
<b>First Amendment</b>	\$2,811.15	\$2,811.15	<b>\$5,622.30</b>
<b>Difference, to be reflected as an increased CTR</b>			<b>\$2,374.94</b>

The First Amendment reflects the change in the project description, a decrease in the development fees (from \$3,998.62 to \$2,811.15) and a decrease in the Contribution to Recovery (from \$3,998.62 to \$2,811.15). No additional payment of development fees or Contribution to Recovery fees is required. Staff has also determined no increase to the cap on administrative fees is required.

Addendum 1.0 has been prepared and reflects the modifications to the original Planning Survey Report application. This Addendum 1.0 will be added to and incorporated within the First Amendment to the PSE Agreement.

**Attachments:**

- **First Amendment to the PSE Agreement, including:**
  - Main body of the amendment
  - Addendum 1.0
    - Main body of the addendum
    - Updated Impact Map and Tables
    - Updated Fee Calculator

**FIRST AMENDMENT**

**TO THE PARTICIPATING SPECIAL ENTITY AGREEMENT  
OF THE EAST CONTRA COSTA COUNTY HABITAT CONSERVATION PLAN/  
NATURAL COMMUNITY CONSERVATION PLAN AND GRANTING TAKE  
AUTHORIZATION**

**Between**

**the EAST CONTRA COSTA COUNTY HABITAT CONSERVANCY, the Implementing  
Entity, and SAN PABLO BAY PIPELINE COMPANY LLC, a Participating Special  
Entity**

**RECITALS**

The Participating Special Entity Agreement between the East Contra Costa County Habitat Conservancy (“Conservancy”) and San Pablo Bay Pipeline Company LLC (“Participating Special Entity” or “PSE”) was entered into on July 29, 2014 (the “PSE Agreement”).

The PSE Agreement provides, in Section 10.4, that it may be amended with the written consent of both parties.

The Conservancy and PSE wish to amend the terms of the PSE Agreement by way of this First Amendment (the “First Amendment”).

**AMENDMENT**

A. The Conservancy and the PSE agree to amend the PSE Agreement as follows:

1. The attached Addendum 1.0 is added to and incorporated within Exhibit 1.
2. Section 2.8 of the Agreement is amended as follows:

The Conservancy has concluded, based on the terms of this Agreement and the application submitted by PSE (the “Application”), [as defined below](#), that PSE has provided adequate assurances that it will comply with all applicable terms and conditions of the IA, the HCP/NCCP, and the Permits. The Application is attached hereto as Exhibit 1 and is hereby incorporated into this Agreement by reference.

3. Section 3.2 of the Agreement is amended as follows:

“**Application**” means the application submitted by the PSE in accordance with Chapter 8.4 of the HCP/NCCP, including Addendum 1.0, which incorporates minor modifications to the Project description of the Project site, and which is attached hereto as Exhibit 1. The Application contains a cover sheet, the results of required planning surveys and the avoidance, minimization and mitigation measures that will be a condition of the PSE using Conservancy’s Permits.

4. Section 5.2 of the Agreement is amended as follows:

Planning surveys are required prior to carrying out any Covered Activity for which a fee is collected or land in lieu of a fee is provided. PSE has submitted a planning survey report and Addendum 1.0 for approval by the Conservancy in accordance with Chapter 6.2.1 of the HCP/NCCP. This planning survey report and Addendum 1.0 ~~is contained within the Application,~~ which describes the results of the planning survey and describes in detail the pre-construction surveys, construction monitoring, avoidance measures and mitigation measures that apply to the Proposed Activities and shall be performed by PSE. Based on the Application, the Conservancy has determined that PSE will implement and comply with all applicable preconstruction surveys and construction monitoring requirements described in Chapters 6.2.2 and 6.2.3 of the HCP/NCCP.

5. Section 5.4 of the Agreement is amended as follows:

As set forth in the Application, PSE agrees to pay the Conservancy a one-time payment of **\$7,997.25**, which amount includes all HCP/NCCP mitigation fees necessary for the Project. The payment also includes an amount sufficient to implement additional actions that will contribute to the recovery of endangered and threatened species (“Contribution to Recovery”). The overall payment amount is the sum of the following:

**Temporary Impact Development Fee: \$2,811.15 ~~3,998.62~~**

**Contribution to Recovery: \$5,186.10 ~~3,998.62~~**

The payment must be paid in full before any ground-disturbance associated with the Project and Addendum 1.0 are implemented ~~occurs~~. Notwithstanding the above, the Parties acknowledge that the Conservancy adjusts its fee schedule annually on March 15 of each year in accordance with the fee adjustment provisions of Chapter 9.3.1 of the HCP/NCCP. If the PSE pays before March 15, 2015 and construction of the Project commences before March 15, 2015, the amount due will be as stated above. If PSE pays on or after March 15, 2015 or construction of the Project does not commence before March 15, 2015, the amount due will be subject to annual fee adjustments for all fees, and subject to

annual adjustments of the Contribution to Recovery based on the formula set forth in Chapter 9.3.1 for the HCP/NCCP wetland mitigation fee. Based on these adjustments, if PSE pays before March 15 of any year, but construction does not commence before March 15 of that year, PSE will either be required to submit an additional payment for any increases or be entitled to a refund without interest for any decreases.

- B. This First Amendment may be executed in counterparts.
- C. All other terms and conditions of the PSE Agreement shall remain as originally agreed.
- D. The Conservancy shall issue a Certificate of Inclusion pursuant to Section 6.1 of the PSE Agreement that is revised to incorporate reference to this First Amendment.
- E. This First Amendment shall take effect on the date after both of the following have occurred:
  - 1. The Conservancy and PSE have executed the First Amendment; and
  - 2. The Conservancy has delivered written notice to PSE that the Conservancy has received written concurrence from the Wildlife Agencies regarding the First Amendment in accordance with Section 6.1 of the PSE Agreement.

**IN WITNESS WHEREOF**, the Conservancy and PSE hereto execute this First Amendment.

**THE EAST CONTRA COSTA COUNTY HABITAT CONSERVANCY**

By: \_\_\_\_\_  
ABIGAIL FATEMAN, Interim Executive Director

Date: \_\_\_\_\_

**SAN PABLO BAY PIPELINE COMPANY LLC**

By: \_\_\_\_\_  
M.L. ELMORE, attorney-in-fact

Date: \_\_\_\_\_

Exhibit 1

**Application Form and Planning Survey Report  
to Comply with and Receive Permit Coverage under  
the East Contra Costa County  
Habitat Conservation Plan and Natural Community  
Conservation Plan**

**Addendum 1.0 for North 20 ILI Repair Project**

**Project Applicant Information:**

**Project Name:** Shell Pipeline North 20 ILI Repair Project

**Project Applicant's Company/Organization:** Shell Pipeline Company & Westside Construction

**Contact's Name:** Michael Elmore

**Contact's Phone:** (310) 816-2208 Fax: N/A

**Contact's Email:** Michael.Elmore@shell.com

**Mailing Address:** Michael Elmore  
Shell Pipeline Company  
20945 South Wilmington Avenue  
Carson, CA 90810

**Project Description:**

**Lead Planner:** Joanne Chiu

**Project Location:** The Project is located within the Clayton U.S. Geological Survey (USGS) 7.5-minute quadrangle. The dig site is north of Marsh Creek road approximately 2.5 miles southeast of the City of Clayton, Contra Costa County.

**Project APN(s) #:** 078-280-002

**Number of Parcels/Units:** 1

**Size of Parcel(s):** 220 acres

**Project Description/Purpose (Brief):** Shell Pipeline Company conducted repairs at a site along their existing Northbound 20-inch crude oil pipeline between August 11 and August 21. The area of excavation required to complete the repair extended outside the originally permitted area (PSE Agreement executed on July 29, 2014).

**Biologist Information:**

**Biological/Environmental Firm:** ICF International

**Lead Contact:** Angela Alcala

**Contact's Phone:** (916) 231-7656 Fax: (916) 737-3000

**Contact's Email:** angela.alcala@icfi.com

**Mailing Address:** 630 K Street, Suite 400  
Sacramento, California 95814

**EAST CONTRA COSTA  
COUNTY HABITAT  
CONSERVANCY**

*City of Brentwood*

*City of Clayton*

*City of Oakley*

*City of Pittsburg*

*Contra Costa County*

*30 Muir Road  
Martinez, Ca 94553-4601  
Phone: 925/674-7203  
Fax: 925/674-7250  
www.cocohcp.org*

# East Contra Costa County HCP/NCCP Planning Survey Report for Shell Pipeline North 20 ILI Repair Project Special Participating Entity

## Addendum 1.0

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## I. Project Overview

**Project proponent:** Shell Pipeline Company & Westside Construction

**Project Name:** Shell Pipeline North 20 ILI Repair Project

**Application Submittal Date:** September 12, 2014, Final - October 10, 2014

**Jurisdiction:**  Contra Costa County  Participating Special Entity<sup>1</sup>

City of Oakley  
 City of Pittsburg  
 City of Clayton  
 City of Brentwood

**Check appropriate Development Fee Zone(s):**  Zone I  Zone IV  
 Zone II  
 Zone III

See Figure 9-1 of the Final HCP/NCCP for a generalized development fee zone map. Detailed development fee zone maps by jurisdiction are available from the jurisdiction or at [www.cocohcp.org](http://www.cocohcp.org).

**Total Parcel Acreage:** 220 acres

**Acreage of land to be permanently disturbed<sup>2</sup>:** All disturbed land was restored to pre-project conditions on August 25, 2014 and no permanent effects occurred.

<sup>1</sup> *Participating Special Entities* are organizations not subject to the authority of a local jurisdiction. Such organizations may include school districts, water districts, irrigation districts, transportation agencies, local park districts, geologic hazard abatement districts, or other utilities or special districts that own land or provide public services.

<sup>2</sup> *Acreage of land permanently disturbed* is broadly defined in the HCP/NCCP to include all areas removed from an undeveloped or habitat-providing state and includes land in the same parcel or project that is not developed, graded, physically altered, or directly affected in any way but is isolated from natural areas by the covered activity. Unless such undeveloped land is dedicated to the Preserve System or is a deed-restricted creek setback, the development fee will apply. The development fees were calculated with the assumption that all undeveloped areas within a parcel (e.g., fragments of undisturbed open space within a residential development) would be charged a fee; the fee per acre would have been higher had this assumption not been made. See Chapter 9 of the HCP/NCCP for details.

**Acreage of land to be temporarily disturbed<sup>3</sup>:**

Permitted temporary disturbance was 0.165 acre (dig area of 0.05, temporary access of 0.05 and soil stockpile area of 0.065). Actual area of disturbance was 0.116 acre (with 0.019 acre occurring outside the permitted area).

## **Project Description**

**Concisely and completely describe the project and location.** Reference and attach a project vicinity map (Figure 1) and the project site plans (Figure 2a and 2b) for the proposed project. Include all activities proposed for site, including those disturbing ground (roads, bridges, outfalls, runoff treatment facilities, parks, trails, etc.) to ensure the entire project is covered by the HCP/NCCP permit. Also include proposed construction dates. Reference a City/County application number for the project where additional project details can be found.

**City/County Application Number:** N/A

### **Anticipated Construction Date:**

Project was constructed between August 11 and August 21 and site restoration occurred on August 25.

### **Project Description:**

The project involved the excavation and repair of Shell Pipeline Company's 20-inch crude oil pipeline at Station No. 8312+75. The repair site was initially identified on the north side of a Contra Costa Water District (CCWD) access road within the Black Diamond Mines Regional Preserve, owned and managed by the East Bay Regional Park District (EBRPD) (shown as permitted area on Figure 2). Once the pipeline was exposed, the contractor determined that the section of pipe that needed to be repaired was further east on the south side of the CCWD access road. The area excavated south of the CCWD road was outside the permitted area (Figure 2). To ensure public safety and to comply with requirements set for by the State Fire Marshal, Shell Pipeline was mandated to complete the repair. Construction took place between August 11 and August 21, 2014 with site restoration completed on August 25.

## **II. Existing Conditions and Impacts**

### **Land Cover Types**

In completing the checklist in Table 1, click in the appropriate fields and type the relevant information. Please calculate acres of terrestrial land cover types to nearest tenth of an acre. Calculate the areas of all jurisdictional wetlands and waters land cover types to the nearest hundredth of an acre. If the field is not applicable, please enter N/A. The sum of the acreages in the *Acreage of land to be "permanently disturbed" and "temporarily disturbed" by project* column should equal the total impact acreage listed above.

Land cover types and habitat elements identified with an <sup>(a)</sup> in Table 1 require identification and mapping of habitat elements for selected covered wildlife species. In Table 2a and 2b below, check the land cover types and habitat elements found in the project area and

<sup>3</sup> *Acreage of land temporarily disturbed* is broadly defined in the HCP/NCCP as any impact on vegetation or habitat that does not result in permanent habitat removal (i.e. vegetation can eventually recover).

describe the results. Insert a map of all land cover types present on-site and other relevant features overlaid on an aerial photo below as Figure 3.

**Table 1. Land Cover Types on the Project Site as Determined in the Field and Shown in Figure 3.**

Land Cover Type (acres, except where noted)	Acreage of Land to be "Permanently Disturbed" by Project <sup>b</sup>	Acreage of Land to be "Temporarily Disturbed" by Project <sup>b</sup>	Acreage of Land Proposed for HCP/NCCP Dedication on the Parcel <sup>c</sup>	
			Stream Setback	Preserve System Dedication
<b>Grassland<sup>a</sup></b>				
<input checked="" type="checkbox"/> Annual grassland		0.116		
<input type="checkbox"/> Alkali grassland				
<input type="checkbox"/> Ruderal				
<input type="checkbox"/> <b>Chaparral and scrub</b>				
<input type="checkbox"/> <b>Oak savanna<sup>a</sup></b>				
<input type="checkbox"/> <b>Oak woodland</b>				
<b>Jurisdictional wetlands and waters</b>				
<input type="checkbox"/> Riparian woodland/scrub				
<input type="checkbox"/> Permanent wetland <sup>a</sup>				
<input type="checkbox"/> Seasonal wetland <sup>a</sup>				
<input type="checkbox"/> Alkali wetland <sup>a</sup>				
<input type="checkbox"/> Aquatic (Reservoir/Open Water) <sup>a</sup>				
<input type="checkbox"/> Slough/Channel <sup>a</sup>				
<input type="checkbox"/> Pond <sup>a</sup>				
<input type="checkbox"/> Stream (acres) <sup>a, d</sup>				
<input type="checkbox"/> Total stream length (feet) <sup>a, d</sup>				
Stream length by width category				
<input type="checkbox"/> ≤ 25 feet wide				
<input type="checkbox"/> > 25 feet wide				
Stream length by type and order <sup>e</sup>				
<input type="checkbox"/> Perennial				
<input type="checkbox"/> Intermittent				
<input type="checkbox"/> Ephemeral, 3 <sup>rd</sup> or higher order				
<input type="checkbox"/> Ephemeral, 1 <sup>st</sup> or 2 <sup>nd</sup> order				
<b>Irrigated agriculture<sup>a</sup></b>				
<input type="checkbox"/> Cropland				
<input type="checkbox"/> Pasture				

Land Cover Type (acres, except where noted)	Acreage of Land to be "Permanently Disturbed" by Project <sup>b</sup>	Acreage of Land to be "Temporarily Disturbed" by Project <sup>b</sup>	Acreage of Land Proposed for HCP/NCCP Dedication on the Parcel <sup>c</sup>	
			Stream Setback	Preserve System Dedication
<input type="checkbox"/> Orchard				
<input type="checkbox"/> Vineyard				
<b>Other</b>				
<input type="checkbox"/> Nonnative woodland				
<input type="checkbox"/> Wind turbines				
<b>Developed</b>				
<input type="checkbox"/> Urban				
<input type="checkbox"/> Aqueduct				
<input type="checkbox"/> Turf				
<input type="checkbox"/> Landfill				
<b>Uncommon Vegetation Types (subtypes of above land cover types)</b>				
<input checked="" type="checkbox"/> Purple needlegrass grassland		0.116		
<input type="checkbox"/> Wildrye grassland				
<input type="checkbox"/> Wildflower fields				
<input type="checkbox"/> Squirreltail grassland				
<input type="checkbox"/> One-sided bluegrass grassland				
<input type="checkbox"/> Serpentine grassland				
<input type="checkbox"/> Saltgrass grassland (= alkali grassland)				
<input type="checkbox"/> Alkali sacaton bunchgrass grassland				
<input type="checkbox"/> Other uncommon vegetation types (please describe)				
<b>Uncommon Landscape Features or Habitat Elements</b>				
<input type="checkbox"/> Rock outcrop				
<input type="checkbox"/> Cave <sup>a</sup>				
<input type="checkbox"/> Springs/seeps				
<input type="checkbox"/> Scalds				
<input type="checkbox"/> Sand deposits				
<input type="checkbox"/> Mines <sup>a</sup>				
<input type="checkbox"/> Buildings (bat roosts) <sup>a</sup>				
<input type="checkbox"/> Potential nest sites (trees or cliffs) <sup>a</sup>				
<b>Total Impacted Acres</b>	<b>0</b>	<b>0.116</b>	<b>0</b>	<b>0</b>

Land Cover Type (acres, except where noted)	Acreage of Land to be "Permanently Disturbed" by Project <sup>b</sup>	Acreage of Land to be "Temporarily Disturbed" by Project <sup>b</sup>	Acreage of Land Proposed for HCP/NCCP Dedication on the Parcel <sup>c</sup>	
			Stream Setback	Preserve System Dedication

<sup>a</sup> Designates habitat elements that may trigger specific survey requirements and/or best management practices for key covered wildlife species. See Chapter 6 in the HCP/NCCP for details.

<sup>b</sup> See Section 9.3.1 of the HCP/NCCP for a definition of "permanently disturbed" and "temporarily disturbed." In nearly all cases, all land in the subject parcel is considered permanently disturbed.

<sup>c</sup> Dedication of land in lieu of fees must be approved by the local agency and the Implementing Entity before they can be credited toward HCP/NCCP fees. See Section 8.6.7 on page 8-32 of the Plan for details on this provision. Stream setback requirements are described in Conservation Measure 1.7 in Section 6.4.1 and in Table 6-2.

<sup>d</sup> Specific requirements on streams are discussed in detail in the HCP/NCCP. Stream setback requirements pertaining to stream type and order can be found in Table 6-2. Impact fees and boundary determination methods pertaining to stream width can be found in Table 9-5. Restoration/creation requirements in lieu of fees depend on stream type and can be found in Tables 5-16 and 5-17.

<sup>e</sup> See glossary (Appendix A) for definition of stream type and order.

## Field-Verified Land Cover Map

**Insert field-verified land cover map.** The map should contain all land cover types present on-site. The map should be representative of an aerial photo. Identify all pages of the field-verified land cover map as **(Figure 3a)**. **Please attach representative photos of the project site (Figure 3b).**

A revised land cover map and representative photographs showing the additional area of impact are provided as Figures 3a and 3b.

## Jurisdictional Wetlands and Waters

Jurisdictional wetlands and waters are defined on pages 1-18 and 1-19 of the Final HCP/NCCP as the following land cover types: permanent wetland, seasonal wetland, alkali wetland, aquatic, pond, slough/channel, and stream. (It should be noted that definitions of these features differ for state and federal jurisdictions.) If you have identified any of these land cover types to be present on the project site in Table 1, complete the section below.

Indicate agency that certified the wetland delineation:

USACE,  RWQCB, or  the ECCC Habitat Conservancy.

Wetland delineation is attached (Jurisdictional Determination)

**Provide any additional information on Impacts to Jurisdictional Wetland and Waters below.**

There are no jurisdictional wetlands or waters within the project area.

## Species-Specific Planning Survey Requirements

Based on the land cover types found on-site and identified in Table 1, check the applicable boxes in Table 2a then provide the results of the planning surveys below. In Table 3 check corresponding preconstruction survey or notification requirements that are triggered by the presence of particular landcover types or species habitat elements as identified in Table 2a. The species-specific planning survey requirements are described in more detail in Section 6.4.3 of the HCP/NCCP.

**Table 2a. Species-Specific Planning Survey Requirements Triggered by Land Cover Types and Habitat Elements in the project area based on Chapter 6 of the Final HCP/NCCP.**

Land Cover Type in the project area?	Species	Habitat Element in the project area?	Planning Survey Requirement
<input checked="" type="checkbox"/> Grasslands, oak savanna, agriculture, ruderal	San Joaquin kit fox	Assumed if within modeled range of species	Identify and map potential breeding and denning habitat and potential dens if within modeled range of species (see Appendix D of HCP/NCCP).
	Western burrowing owl	Assumed	Identify and map potential breeding habitat.
<input type="checkbox"/> Aquatic (ponds, wetlands, streams, slough, channels, & marshes)	Giant garter snake	<input type="checkbox"/> Aquatic habitat accessible from San Joaquin River	Identify and map potential habitat.

Land Cover Type in the project area?	Species	Habitat Element in the project area?	Planning Survey Requirement
	California tiger salamander	<input type="checkbox"/> Ponds and wetlands in grassland, oak savanna, oak woodland <input type="checkbox"/> Vernal pools <input type="checkbox"/> Reservoirs <input type="checkbox"/> Small lakes	Identify and map potential breeding habitat. Document habitat quality and features. Provide Implementing Entity with photo-documentation and report.
	California red-legged frog	<input type="checkbox"/> Slow-moving streams, ponds, and wetlands	Identify and map potential breeding habitat. Document habitat quality and features. Provide Implementing Entity with photo-documentation and report.
<input type="checkbox"/> Seasonal wetlands	Covered shrimp	<input type="checkbox"/> Vernal pools <input type="checkbox"/> Sandstone rock outcrops <input type="checkbox"/> Sandstone depressions	Identify and map potential breeding habitat.
Any	Townsend's big-eared bat	<input type="checkbox"/> Rock formations with caves <input type="checkbox"/> Mines <input type="checkbox"/> Abandoned buildings outside urban areas	Map and document potential breeding or roosting habitat.
	Swainson's hawk	<input type="checkbox"/> Potential nest sites (trees within species' range usually below 200')	Inspect large trees for presence of nest sites.
	Golden eagle	<input type="checkbox"/> Potential nest sites (secluded cliffs with overhanging ledges; large trees)	Document and map potential nests.

<sup>a</sup> Vernal pool fairy shrimp, vernal pool tadpole shrimp, longhorn fairy shrimp, and midvalley fairy shrimp.

## Results of Species-Specific Planning Surveys Required in Table 2a

**1. Describe the results of the planning survey conducted as required in Table 2a.** Planning surveys assessed the location, quantity, and quality of suitable habitat for specified covered wildlife species on the project site. Covered species are assumed to occupy suitable habitat in impact areas and mitigation is based on assumption of take.

**2. Reference and attach the Planning Survey Species Habitat Maps as required in Table 2a (Figure 4).**

## Special-Status Wildlife Survey Results

Grassland within the previously permitted project area and the additional disturbance area provides potential upland habitat for several special-status and HCP-covered wildlife species, including San Joaquin kit fox, burrowing owl (HCP Appendix D-05c), California tiger salamander, and California red-legged frog. Based on HCP modeled habitat, the project area and additional disturbance area is also within an area identified as movement habitat for Alameda whipsnake. Potential nesting habitat for golden eagle is absent from the project area but the species could use oak woodlands surrounding the project site as nest sites. Figure 4 depicts habitat for sensitive species within and adjacent to the permitted project area and the additional disturbance area.

## Covered and No-Take Plants

On suitable land cover types, surveys for covered and no-take plants must be conducted using approved CDFG/USFWS methods during the appropriate season to identify any covered or no-take plant species that may occur on the site (see page 6-9 of the Final HCP/NCCP). Based on the land cover types found in the project area and identified in Table 1, check the applicable boxes in Table 2b and provide a summary of survey results as required below. If any no-take plants are found in the project area, the provisions of Conservation Measure 1.11 must be followed (see *Avoidance and Minimization Measures* below).

**Table 2b. Covered and No-Take Plant Species, Typical Habitat Conditions, and Typical Blooming Periods**

Land Cover Type in the project area?	Plant Species	Covered (C) or No-Take (N)?	Typical Habitat or Physical Conditions, if Known	Typical Blooming Period <sup>a</sup>
<input type="checkbox"/> Oak savanna	Diablo Helianthella ( <i>Helianthella castanea</i> )	C	Elevation above 650 feet <sup>b</sup>	Mar–Jun
	Mount Diablo fairy-lantern ( <i>Calochortus pulchellus</i> )	C	Elevation between 650 and 2,600 feet <sup>b</sup>	Apr–Jun
<input type="checkbox"/> Oak woodland	Brewer’s dwarf flax ( <i>Hesperolinon breweri</i> )	C		May–Jul
	Diablo Helianthella ( <i>Helianthella castanea</i> )	C	Elevation above 650 feet <sup>b</sup>	Mar–Jun
	Mount Diablo fairy-lantern ( <i>Calochortus pulchellus</i> )	C	Elevation between 650 and 2,600 feet <sup>b</sup>	Apr–Jun
	Showy madia ( <i>Madia radiata</i> )	C		Mar–May
<input type="checkbox"/> Chaparral and scrub	Brewer’s dwarf flax ( <i>Hesperolinon breweri</i> )	C		May–Jul
	Diablo Helianthella ( <i>Helianthella castanea</i> )	C	Elevation above 650 feet <sup>b</sup>	Mar–Jun

Land Cover Type in the project area?	Plant Species	Covered (C) or No-Take (N)?	Typical Habitat or Physical Conditions, if Known	Typical Blooming Period <sup>a</sup>
	Mount Diablo buckwheat ( <i>Eriogonum truncatum</i> )	N		Apr–Sep; uncommonly Nov–Dec.
	Mount Diablo fairy-lantern ( <i>Calochortus pulchellus</i> )	C	Elevation between 650 and 2,600 feet <sup>b</sup>	Apr–Jun
	Mount Diablo Manzanita ( <i>Arctostaphylos auriculata</i> )	C	Elevation between 700 and 1,860 feet; restricted to the eastern and northern flanks of Mt. Diablo <sup>b</sup>	Jan–Mar
<input type="checkbox"/> Alkali grassland	Brittlescale ( <i>Atriplex depressa</i> )	C	Restricted to soils of the Pescadero or Solano soil series; generally found in southeastern region of plan area <sup>b</sup>	May–Oct
	Caper-fruited tropidocarpum ( <i>Tropidocarpum capparideum</i> )	N		Mar–Apr
	Contra Costa goldfields ( <i>Lasthenia conjugens</i> )	N	Generally found in vernal pools	Mar–Jun
	Recurved larkspur ( <i>Delphinium recurvatum</i> )	C		Mar–Jun
	San Joaquin spearscale ( <i>Atriplex joaquiniana</i> )	C		Apr–Oct
<input type="checkbox"/> Alkali wetland	Alkali milkvetch ( <i>Astragalus tener</i> ssp. <i>tener</i> )	N		Mar–Jun
	Brittlescale ( <i>Atriplex depressa</i> )	C	Restricted to soils of the Pescadero or Solano soil series; generally found in southeastern region of plan area <sup>b</sup>	May–Oct
	San Joaquin spearscale ( <i>Atriplex joaquiniana</i> )	C		Apr–Oct
<input checked="" type="checkbox"/> Annual grassland	Alkali milkvetch ( <i>Astragalus tener</i> ssp. <i>tener</i> )	N		Mar–Jun
	Big tarplant ( <i>Blepharizonia plumosa</i> )	C	Elevation below 1500 feet <sup>b</sup>	Jul–Oct

Land Cover Type in the project area?	Plant Species	Covered (C) or No-Take (N)?	Typical Habitat or Physical Conditions, if Known	Typical Blooming Period <sup>a</sup>
	Brewer's dwarf flax ( <i>Hesperolinon breweri</i> )	C	Restricted to grassland areas within a 500+ buffer from oak woodland and chaparral/scrub <sup>b</sup>	May–Jul
	Contra Costa goldfields ( <i>Lasthenia conjugens</i> )	N	Generally found in vernal pools	Mar–Jun
	Diamond-petaled poppy ( <i>Eschscholzia rhombipetala</i> )	N		Mar–Apr
	Large-flowered fiddleneck ( <i>Amsinckia grandiflora</i> )	N		Apr–May
	Mount Diablo buckwheat ( <i>Eriogonum truncatum</i> )	N		Apr–Sep; uncommonly Nov–Dec
	Mount Diablo fairy-lantern ( <i>Calochortus pulchellus</i> )	C	Elevation between 650 and 2,600 <sup>b</sup>	Apr–Jun
	Round-leaved filaree ( <i>California macrophylla</i> ) <sup>1</sup>	C		Mar–May
	Showy madia ( <i>Madia radiata</i> )	C		Mar–May
<input type="checkbox"/> Seasonal wetland	Adobe navarretia ( <i>Navarretia nigelliformis</i> ssp. <i>nigelliformis</i> )	C	Generally found in vernal pools <sup>b</sup>	Apr–Jun
	Alkali milkvetch ( <i>Astragalus tener</i> sp. <i>tener</i> )	N		Mar–Jun
	Contra Costa goldfields ( <i>Lasthenia conjugens</i> )	N	Generally found in vernal pools	Mar–Jun

<sup>a</sup> From California Native Plant Society. 2007. *Inventory of Rare and Endangered Plants* (online edition, v7-07d). Sacramento, CA. Species may be identifiable outside of the typical blooming period; a professional botanist shall determine if a covered or no take plant occurs on the project site.

<sup>b</sup> See Species Profiles in Appendix D of the Final HCP/NCCP.

## Results of Covered and No-Take Plant Species Planning Surveys Required in Table 2b

**Describe the results of the planning survey conducted as required in Table 2b.** Describe the methods used to survey the site for all covered and no-take plants, including the dates and times of all survey's conducted (see Tables 3-8 and 6-5 of the HCP/NCCP for covered and no-take

plants). In order to complete all the necessary covered and no-take plant surveys, both spring and fall surveys are required, check species survey requirements below.

**If any covered or no-take plants were found, include the following information in the results summary:**

- Description and number of occurrences and their rough population size.
- Description of the “health” of each occurrence, as defined on pages 5-49 and 5-50 of the HCP/NCCP.
- A map of all the occurrences.
- Justification of surveying time window, if outside of the plant’s blooming period.
- The CNDDDB form(s) submitted to CDFG (if this is a new occurrence).
- A description of the anticipated impacts that the covered activity will have on the occurrence and/or how the project will avoid impacts to all covered and no-take plant species. All projects must demonstrate avoidance of all six no-take plants (see table 6-5 of the HCP/NCCP).

### **Special-Status Plant Survey Results**

Grassland at the project site has the potential to support 10 HCP covered and no-take plant species, including big tarplant (*Blepharizonia plumosa*), Contra Costa goldfields (*Lasthenia conjugens*), showy madia (*Madia radiata*), large-flowered fiddleneck (*Amsinckia grandiflora*), alkali milkvetch (*Astragalus tener* var. *tener*), round-leaved filaree (*California macrophylla*), Mt. Diablo fairy lantern (*Calochortus pulchellus*), Brewer’s dwarf flax (*Hesperolinon breweri*), diamond-petaled California poppy (*Eschscholzia rhombipetala*), and Mt. Diablo buckwheat (*Eriogonum truncatum*). None of the above species were observed during an April 25, 2014 spring-blooming botanical survey, which coincided with the identification period for all but one of these species, big tarplant. A subsequent survey was conducted for big tarplant on August 8, 2014 prior to the start of construction and no plants of this species were observed. Although the additional disturbance area was not included in the initial permit, the April and August 2014 botanical surveys covered a larger area (200-foot buffer around the project area) that included the additional disturbance area.

## **III. Species-Specific Monitoring and Avoidance Requirements**

This section discusses subsequent actions that are necessary to ensure project compliance with Plan requirements. Survey requirements and Best Management Practices pertaining to selected covered wildlife species are detailed in Section 6.4.3, *Species-Level Measures*, beginning on page 6-36 of the Final HCP/NCCP.

### **Preconstruction Surveys for Selected Covered Wildlife**

If habitat for selected covered wildlife species identified in Table 2a was found to be present in the project area. In Table 3, identify the species for which preconstruction surveys or notifications are required based on the results of the planning surveys. Identify whether a condition of approval has been inserted into the development contract to address this requirement.

**Table 3. Applicable Preconstruction Survey and Notification Requirements based on Land Cover Types and Habitat Elements Identified in Table 2a.**

Species	Preconstruction Survey and Notification Requirements
<input type="checkbox"/> None	
<input checked="" type="checkbox"/> San Joaquin kit fox (p. 6-38)	Map all dens (>5 in. diameter) and determine status. Determine if breeding or denning foxes are in the project area. Provide written preconstruction survey results to FWS within 5 working days after surveying.
<input checked="" type="checkbox"/> Western burrowing owl (p. 6-40)	Map all burrows and determine status. Document use of habitat (e.g. breeding, foraging) in/near disturbance area (within 500 ft.)
<input type="checkbox"/> Giant garter snake (p. 6-44)	Delineate aquatic habitat up to 200 ft. from water's edge. Document any sightings of garter snake.
<input type="checkbox"/> California tiger salamander (p. 6-46) (notification only)	Provide written notification to USFWS and CDFG regarding timing of construction and likelihood of occurrence in the project area.
<input type="checkbox"/> California red-legged frog (p. 6-47) (notification only)	Provide written notification to USFWS and CDFG regarding timing of construction and likelihood of occurrence in the project area.
<input type="checkbox"/> Covered shrimp species (p. 6-47)	Document and evaluate use of all habitat features (e.g., vernal pools, rock outcrops). Document occurrences of covered shrimp.
<input type="checkbox"/> Townsend's big-eared bat (p. 6-37)	Determine if site is occupied or shows signs of recent occupation (guano).
<input type="checkbox"/> Swainson's hawk (p. 6-42)	Determine whether nests are occupied.
<input checked="" type="checkbox"/> Golden eagle (p. 6-39)	Determine whether nests are occupied.
Note: Page numbers refer to the HCP/NCCP.	

## Preconstruction Surveys as Required for Selected Covered Wildlife in Table 3

**Describe the preconstruction survey's or notification conditions applicable to any species checked in Table 3.** All preconstruction surveys shall be conducted in accordance with the requirements set forth in Section 6.4.3, *Species-Level Measures*, and Table 6-1 of the HCP/NCCP.

In accordance with the HCP/NCCP and as required under Shell Pipeline's (aka San Pablo Pipeline Company, LLC) Participating Special Entity Agreement with the East Contra Costa County Habitat Conservancy, preconstruction surveys were conducted within the permitted project area and up to 500 feet outside the project area for San Joaquin kit fox, burrowing owl, golden eagle, and other nesting birds and raptors at the project site on July 15, 2014. In summary, no HCP-covered species or active bird nests were observed during the preconstruction field survey. Because construction began on August 11, 2014, which was more than 14 days after the July nesting bird survey, a subsequent nesting bird/raptor survey was conducted immediately prior to construction and no active nests were detected.

The additional disturbance area that extended beyond the permitted project area was covered by the preconstruction surveys as it was contained within the 200-foot buffer for plants and 500-foot buffer for wildlife. No special-status wildlife were encountered prior to or during project construction.

## **Construction Monitoring & Avoidance and Minimization Measures for Selected Covered Species**

If preconstruction surveys for key covered wildlife species establish the presence of any such species, construction monitoring will be necessary. In Table 4, check the boxes for the species that will be assessed during the preconstruction surveys (see Table 3). A summary of the construction monitoring requirements for each species is provided in Table 4 and these measures must be implemented in the event that preconstruction surveys described in Table 3 detect the covered species. A summary of avoidance measures is also provided in Table 4 and these measures must be implemented if construction monitoring detects the species or its sign. These construction monitoring and avoidance requirements are described in detail in Section 6.4.3, Species-Level Measures, of the Final HCP/NCCP.

### **Construction Monitoring Plan Requirements in Section 6.3.3, Construction Monitoring, of the Final HCP/NCCP:**

- Before implementing a covered activity, the applicant will develop and submit a construction-monitoring plan to the Implementing Entity<sup>4</sup> for approval.**

A construction monitoring plan was submitted to the Conservancy on July 24, 2014 and was approved by Joanne Chiu on July 30, 2014.

**Table 4. Applicable Construction Monitoring Requirements**

Species Assessed by Preconstruction Surveys	Monitoring Action Required if Species Detected
<input type="checkbox"/> None	N/A
<input checked="" type="checkbox"/> San Joaquin kit fox (p. 6-38)	Establish exclusion zones (>50 ft) for potential dens. Establish exclusion zones (>100 ft) for known dens. Notify USFWS of occupied natal dens.
<input checked="" type="checkbox"/> Western burrowing owl (p. 6-40)	Establish buffer zones (250 ft) around nests. Establish buffer zones (160 ft) around burrows.
<input type="checkbox"/> Giant garter snake (p. 6-44)	Delineate 200-ft buffer around potential habitat. Provide field report on monitoring efforts. Stop construction activities if snake is encountered; allow snake to passively relocate. Remove temporary fill or debris from construction site. Mandatory training for construction personnel.
<input type="checkbox"/> Covered shrimp species (p. 6-47)	Establish buffer around outer edge of all hydric vegetation associated with habitat (50 feet of limit of immediate watershed supporting the wetland, whichever is larger). Mandatory training for construction personnel.

<sup>4</sup> The East Contra Costa County Habitat Conservancy and the local land use Jurisdiction must review and approve the plan **prior** to the commencement of all covered activities (i.e. construction).

Species Assessed by Preconstruction Surveys	Monitoring Action Required if Species Detected
<input type="checkbox"/> Swainson's hawk (p. 6-42)	Establish 1,000-ft buffer around active nest and monitor compliance.
<input checked="" type="checkbox"/> Golden eagle (p. 6-39)	Establish 0.5-mile buffer around active nest and monitor compliance.

## Construction Monitoring & Avoidance and Minimization Measures as Required for Selected Covered Wildlife in Table 4

**Describe the construction monitoring and avoidance and minimization measures applicable to any species checked in Table 4.** A summary of avoidance measures is provided in Table 4, these measures must be implemented if construction monitoring detects the presence of the species. The construction monitoring & avoidance and minimization measures requirements are described in detail in Section 6.4.3, Species-Level Measures, of the HCP/NCCP.

No exclusion zones were required because no San Joaquin kit fox, burrowing owl, or nesting golden eagles were found within the corresponding survey area as described in Section 6.4.3 of the HCP/NCCP. The following Best Management Practices (BMPs) were implemented during construction, including the installation of exclusion fencing around the perimeter of the excavation pit to ensure that no wildlife would enter the active construction area and become entrapped.

- A qualified biologist will train all project staff on the identification of special-status species and required practices before the start of ground-disturbing activities. The training will include the general measures that are being implemented to protect and conserve species as they relate to the project, and the boundaries of the approved work area. Upon completing training, employees will sign a form stating that they attended the training and understand all the conservation and protection measures.
- A qualified biologist will monitor all ground-disturbing activities (i.e., grading, vegetation removal).
- The USFWS-approved biologist will complete a daily log summarizing activities and environmental compliance.
- Ground disturbance will be minimized to the maximum extent practicable and confined to the designated project site.
- All construction activities will cease 0.5 hour before sunset and will not begin prior to 0.5 hour before sunrise.
- To prevent inadvertent entrapment of special-status wildlife during construction, all excavated, steep-walled holes or trenches more than 6 inches deep will be provided with one or more escape ramps constructed of earth fill or wooden planks and will be inspected by a qualified biologist prior to being filled.
- The onsite biological monitor will inspect open trenches, pits, and under construction equipment and material left onsite in the morning and evening to look for special-status wildlife that may have become trapped or are seeking refuge.
- No canine or feline pets or firearms (except those accompanying federal, state, or local law enforcement officers and security personnel) will be permitted at the project site.
- No monofilament plastic mesh or line will be used for erosion control.
- All vehicle parking will be restricted to previously determined areas or existing roads within the designated work area.
- All workers will ensure their food scraps, paper wrappers, food containers, cans, bottles, and other trash from the project area are deposited in covered or closed trash containers

to avoid attracting predators. The trash containers will be removed from the project area at the end of each working day.

## IV. Landscape and Natural Community-Level Avoidance and Minimization Measures

Describe relevant avoidance and minimization measures required to address the conservation measures listed below. If a conservation measure is not relevant to the project, explain why.

### For All Projects

#### HCP/NCCP Conservation Measure 1.10. Maintain Hydrologic Conditions and Minimize Erosion

Briefly describe how the project complies with this measure. See page 6-21 of the Final HCP/NCCP for details.

During initial excavation of the site (permitted and additional disturbance area), the upper 3 inches of topsoil was stockpiled separate from the rest of the excavated soil. Once the pipeline repair was complete, the repair site was re-contoured and re-compacted to its original condition and the 3-inch organic horizon salvaged topsoil was replaced and all disturbed impacted areas were hydroseeded with a native seed mix as prescribed below:

Seed Type	Approximate Seeding Rate
California brome ( <i>Bromus carinatus</i> )	15 lbs/acre
Idaho fescue ( <i>Festuca idahoensis</i> )	15 lbs/acre
Creeping wild rye grass ( <i>Elymus triticoides</i> )	5 lbs/acre
Small Fescue ( <i>Festuca microstachys</i> )	5 lbs/acre
Purple needle grass ( <i>Stipa pulchra</i> )	10 lbs/acre
Meadow barley ( <i>Hordeum brachyantherum</i> )	12 lbs/acre

The seeded area was tactified to prevent winter erosion.

Because the originally permitted stockpile area was not used, no erosion control or water quality control measures were implemented for that area.

#### HCP/NCCP Conservation Measure 1.11. Avoid Direct Impacts on Extremely Rare Plants, Fully Protected Wildlife Species, or Covered Migratory Birds

Briefly describe how the project complies with this measure. See page 6-23 of the Final HCP/NCCP for details.

##### **Extremely Rare Plants**

Extremely rare plants or suitable habitat for rare plants have not been previously documented (CNDDB 2014) at the project site and no rare plants were observed during the April and August 2014 botanical surveys conducted on the permitted site or the additional disturbance area.

### **Fully Protected Wildlife Species and Covered Migratory Birds**

Grassland at the project site provides ground-nesting habitat for migratory birds. No active nests were observed at the project site during the initial April 22, 2014 survey and the July 14 and August 11, 2014 preconstruction surveys, which coincided with the nesting season of most migratory birds (generally February through August). No active nests were observed within the permitted area and the additional disturbance area; therefore, no additional avoidance measures were necessary during construction.

## **For Projects on or adjacent to Streams or Wetlands**

### **HCP/NCCP Conservation Measure 1.7. Establish Stream Setbacks**

Briefly describe how the project complies with this measure. See page 6-15 and Table 6-2 of the Final HCP/NCCP for details. For questions on the stream setback requirements, please contact the Conservancy.

No streams or wetlands occur on or adjacent to the project site.

### **HCP/NCCP Conservation Measure 2.12. Wetland, Pond, and Stream Avoidance and Minimization**

Briefly describe how the project complies with this measure. See page 6-33 of the Final HCP/NCCP for details.

The temporary soil stockpile area previously permitted as part of the project was not used during construction and so avoidance measures for wetland, pond, or stream habitats was not required as these resources were not present near the repair site, including the additional disturbance area.

## **For Projects adjacent to Protected Natural Lands (existing and projected)**

Covered activities adjacent to permanently protected natural lands will require a variety of special considerations to address issues associated with characteristics of the urban-wildland interface. These considerations are intended to minimize the impacts of development on the integrity of habitat preserved and protected under the terms of the Plan. Permanently protected natural lands are defined as any of the following (see the latest Preserve System map on the Conservancy web site, [www.cocohcp.org](http://www.cocohcp.org)).

- Publicly owned open space with substantial natural land cover types including but not limited to state and regional parks and preserves and public watershed lands (local and urban neighborhood parks are excluded).
- Deed-restricted private conservation easements.
- HCP/NCCP Preserve System lands.
- Potential HCP/NCCP Preserve System lands (see Figure 5-3 in the HCP/NCCP).

## **HCP/NCCP Conservation Measure 1.6. Minimize Development Footprint Adjacent to Open Space**

Briefly describe how the project complies with this measure. See page 6-14 of the Final HCP/NCCP for details.

The repair site is located on the Clayton Ranch (part of the Black Diamond Mines Regional Preserve), owned and managed by EBRPD. Because the project is a maintenance/repair activity within an existing utility easement, no new permanent impacts are anticipated. Temporary impacts associated with the repair site were small (0.116 acre) and disturbed habitat was restored to pre-project conditions.

## **HCP/NCCP Conservation Measure 1.8. Establish Fuel Management Buffer to Protect Preserves and Property**

Briefly describe how the project complies with this measure. See page 6-18 of the Final HCP/NCCP for details.

The project does not involve the development of any new or permanent features. Therefore, Conservation Measure 1.8 is not applicable to the Project.

## **HCP/NCCP Conservation Measure 1.9. Incorporate Urban-Wildland Interface Design Elements**

Briefly describe how the project complies with this measure. See page 6-20 of the Final HCP/NCCP for details.

The project does not involve the development of any new or permanent features. Therefore, Conservation Measure 1.9 is not applicable to the Project.

## **For Rural Infrastructure Projects**

Rural infrastructure projects provide infrastructure that supports urban development within the urban development area. Such projects are divided into three categories: transportation projects, flood protection projects, and utility projects. Most rural road projects covered by the Plan will be led by Contra Costa County. All flood protection projects covered by the Plan will be led by the County Flood Control District. Utility projects will likely be led by the private companies that own the utility lines. A complete discussion of rural infrastructure projects is presented in Section 2.3.2 of the Final HCP/NCCP beginning on page 2-18.

## **HCP/NCCP Conservation Measure 1.12. Implement Best Management Practices for Rural Road Maintenance**

Briefly describe how the project complies with this measure. See page 6-25 of the Final HCP/NCCP for details.

The project is not a rural road project. Therefore, Conservation Measure 1.12 is not applicable to the project.

## HCP/NCCP Conservation Measure 1.13. Implement Best Management Practices for Flood Control Facility Maintenance

Briefly describe how the project complies with this measure. See page 6-26 of the Final HCP/NCCP for details.

The project is not a flood control project. Therefore, Conservation Measure 1.13 is not applicable to the project.

## HCP/NCCP Conservation Measure 1.14. Design Requirements for Covered Roads outside the Urban Development Area

Briefly describe how the project complies with this measure. See page 6-27 of the Final HCP/NCCP for details.

The project is not a rural road project. Therefore, Conservation Measure 1.12 is not applicable to the project.

# V. Mitigation Measures

### Complete and Attach Exhibit 1 (Permanent Impact Fees) and/or Exhibit 2 (Temporary Impact Fees) Fee Calculator(s) for Permanent and Temporary Impacts.

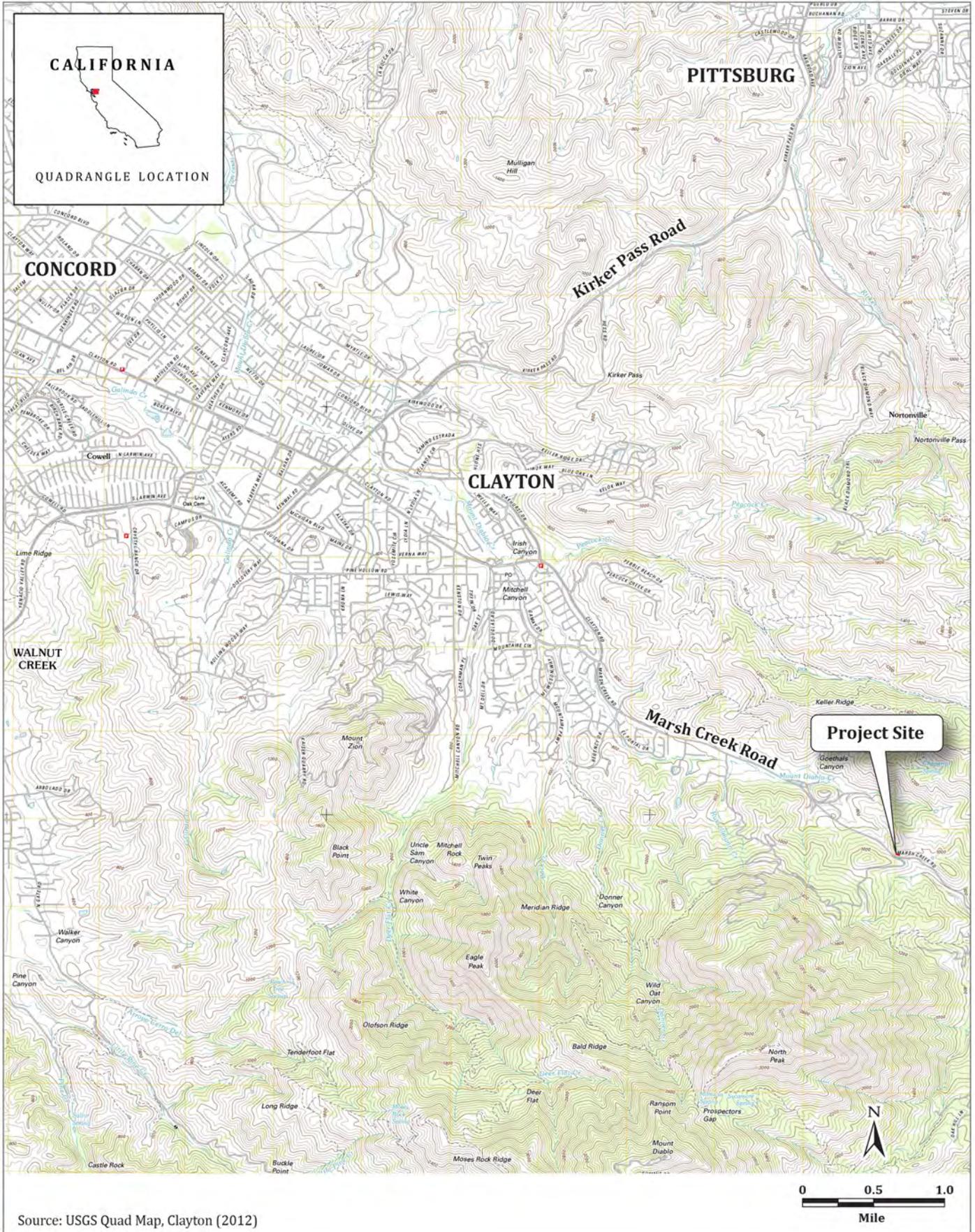
- Briefly describe the amount of fees to be paid and when.
- See Section 9.3.1 of the HCP/NCCP for details. If land is to be dedicated in lieu of fees or if restoration or creation of jurisdictional wetlands or waters is to be performed in lieu of fees, summarize these actions here and attach written evidence that the Conservancy has approved these actions in lieu of fees.

Although all impacts are temporary, the applicant mitigated for temporary impacts by paying the full development fee, which is provided as an option in the HCP/NCCP in lieu of calculating the area of indirect effects, in order to determine a project impact area subject to the temporary fee.

The applicant initially paid development fees in the amount of \$3,998.62 for temporary disturbance of 0.165 acre of grassland and ruderal habitat. Although the applicant disturbed additional grassland habitat outside the permitted area, their overall disturbance was 0.116 acre (0.049 acre less than permitted), which would require a development fee of \$2,881.15. The difference between the development fees initially paid and the actual development fees based on temporary disturbance of 0.116 acre of grassland habitat is -\$1,187.47.

Therefore, no additional payment of development or recovery fees is required because actual construction impacts were less than originally permitted.

Please refer to revised Exhibit 1: HCP/NCCP Fee Calculator Worksheet, attached.



00242.14.001 (05-14-2014).SS

Source: USGS Quad Map, Clayton (2012)



**Figure 1**  
**Project Vicinity Map**  
Shell Pipeline North 20 ILI Repair Project on East Bay Regional Park District

Path: K:\Projects\_1\EBRPD\00242\_14\_Shell\_Pipeline\_North20\ILM\mapdoc\Figure2a\_Site\_plan\_20140923.mxd; User: 19393; Date: 10/2/2014

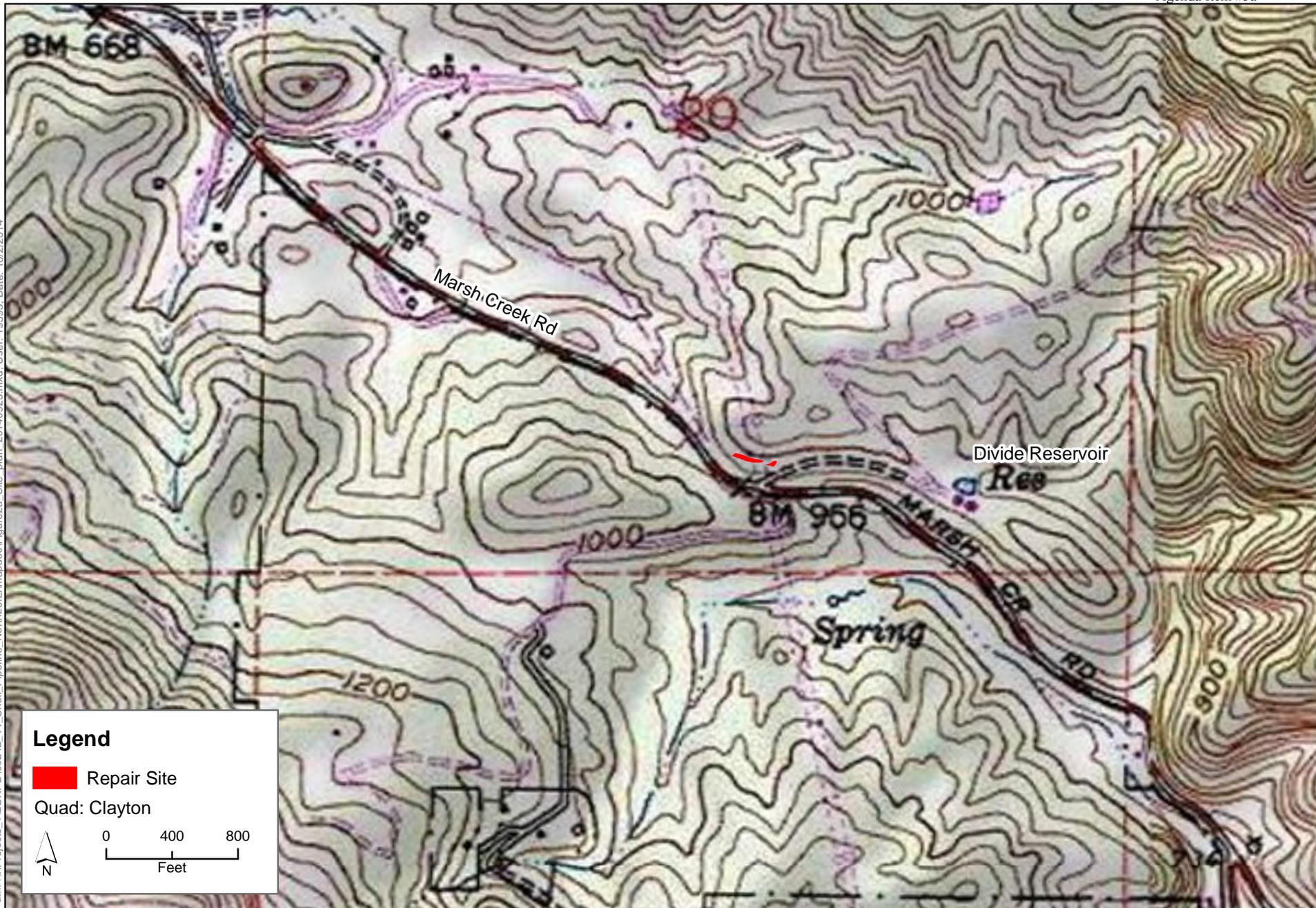


Figure 2a  
Location of Completed Project  
Shell Pipeline North 20 ILI Repair Project on East Bay Regional Park District

Path: K:\Projects\_1\EBRPD\00242\_14\_Shell\_Pipeline\_North20\ILM\mapdoc\Figure2b\_Revised\_Site\_Plan\_20140923.mxd; User: 19393; Date: 10/2/2014

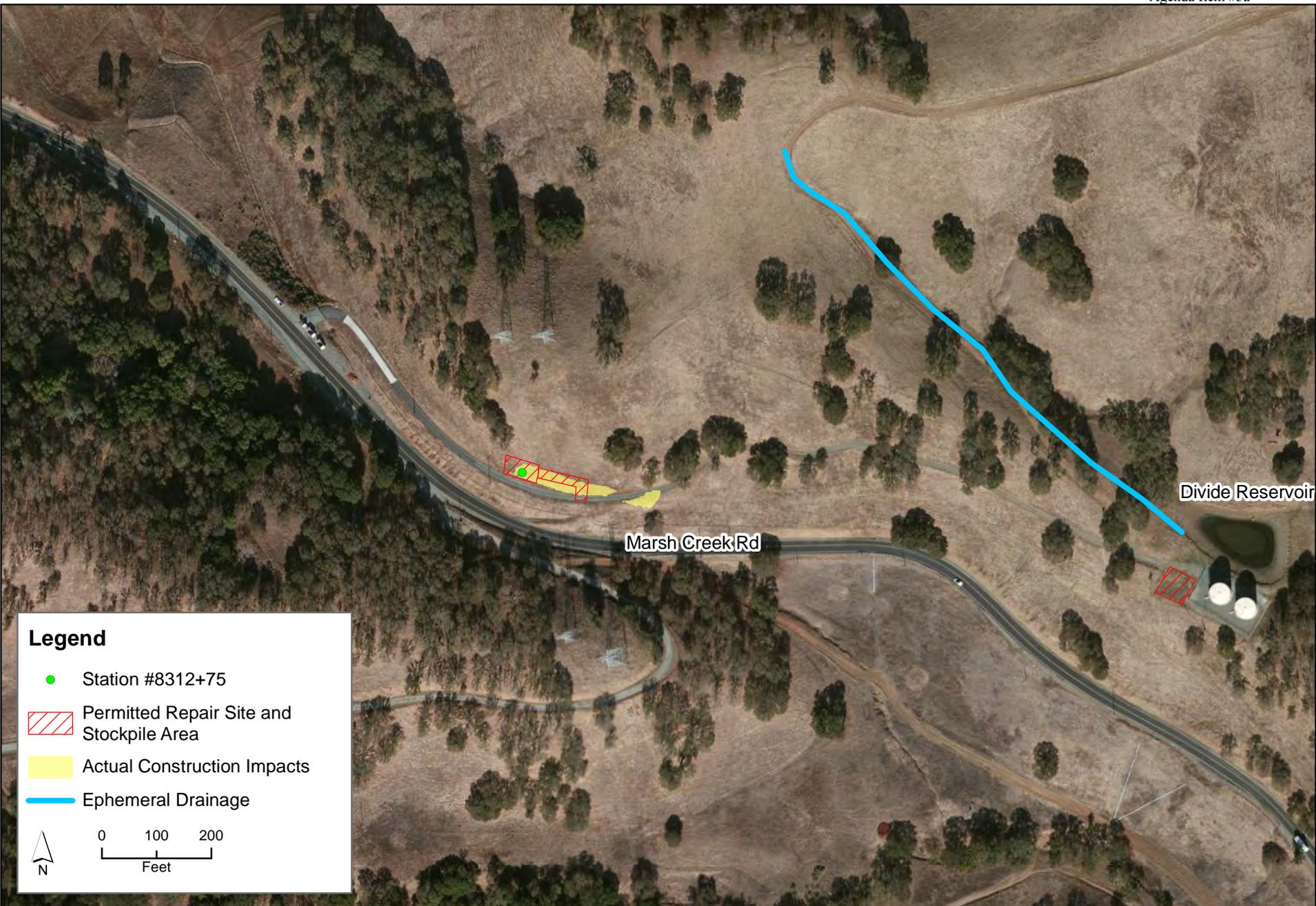
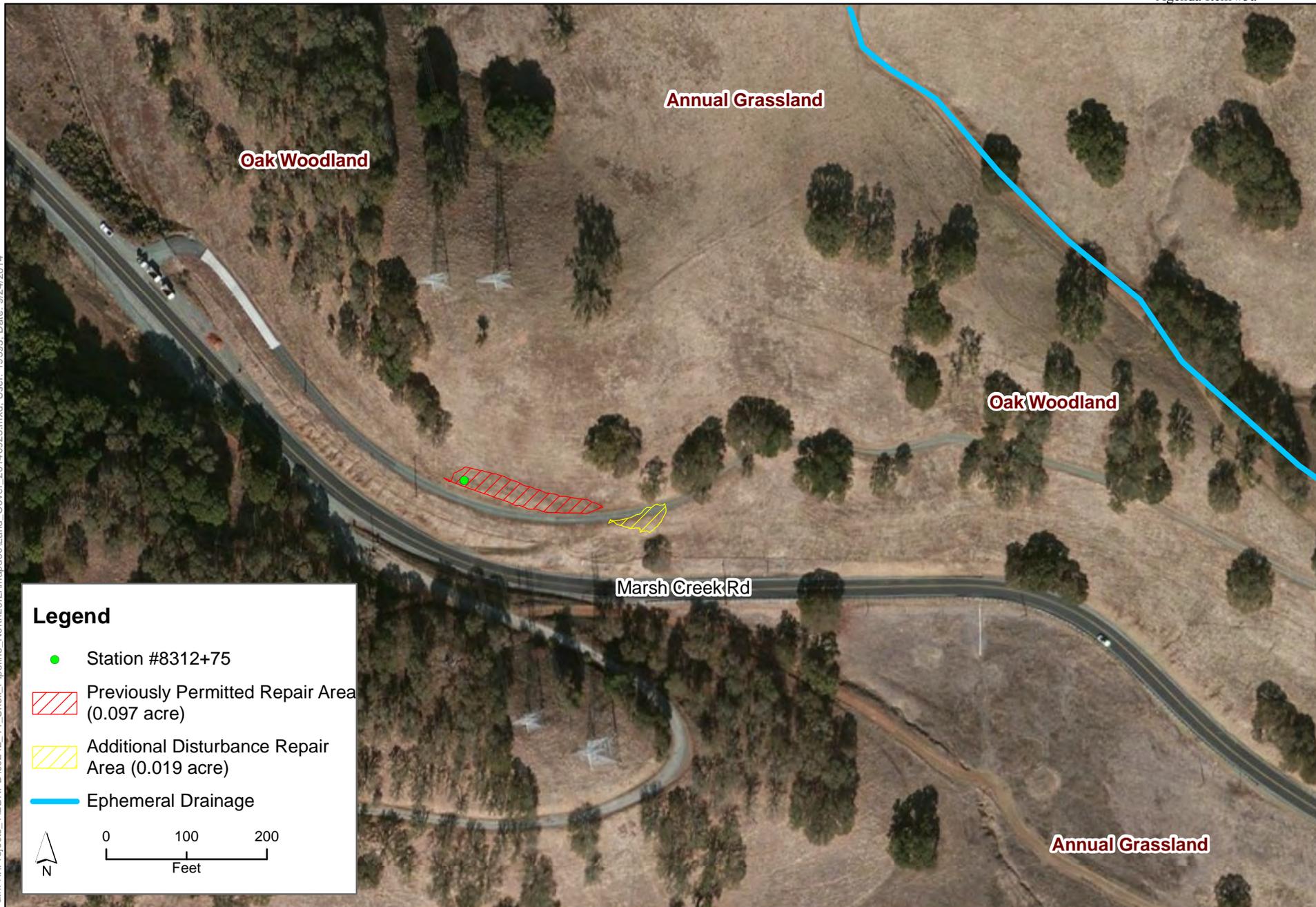
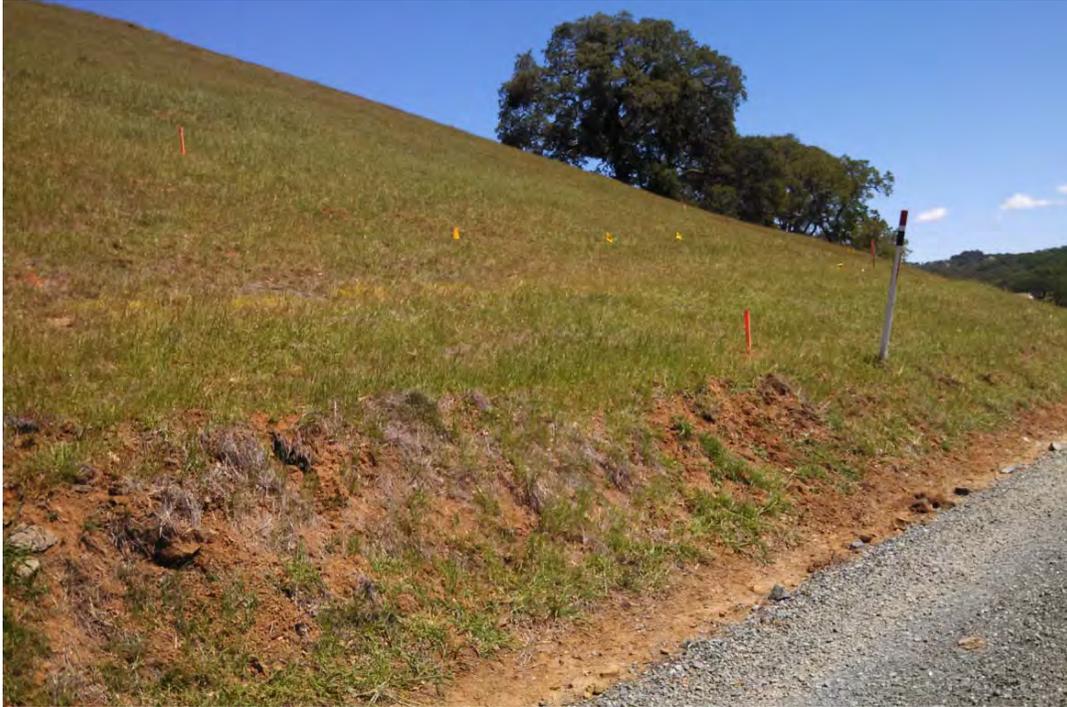


Figure 2b  
Revised Project Site Plan  
Shell Pipeline North 20 ILI Repair Project on East Bay Regional Park District

Path: K:\Projects\_1\EBRPD\00242\_14\_Shell\_Pipeline\_North20\Mapdoc\Land\_Cover\_2014.09.23.mxd; User: 19393; Date: 9/24/2014



Revised Figure 3a  
 Land Cover Map  
 Shell Pipeline North 20 ILI Repair Project on East Bay Regional Park District



**Photo 1.** Eastern portion of project site (boundaries marked with orange stakes)



**Photo 2.** Western portion of project site (boundaries marked with orange stakes)

**Figure 3b. Representative Photographs of Shell Pipeline Repair Project Site**



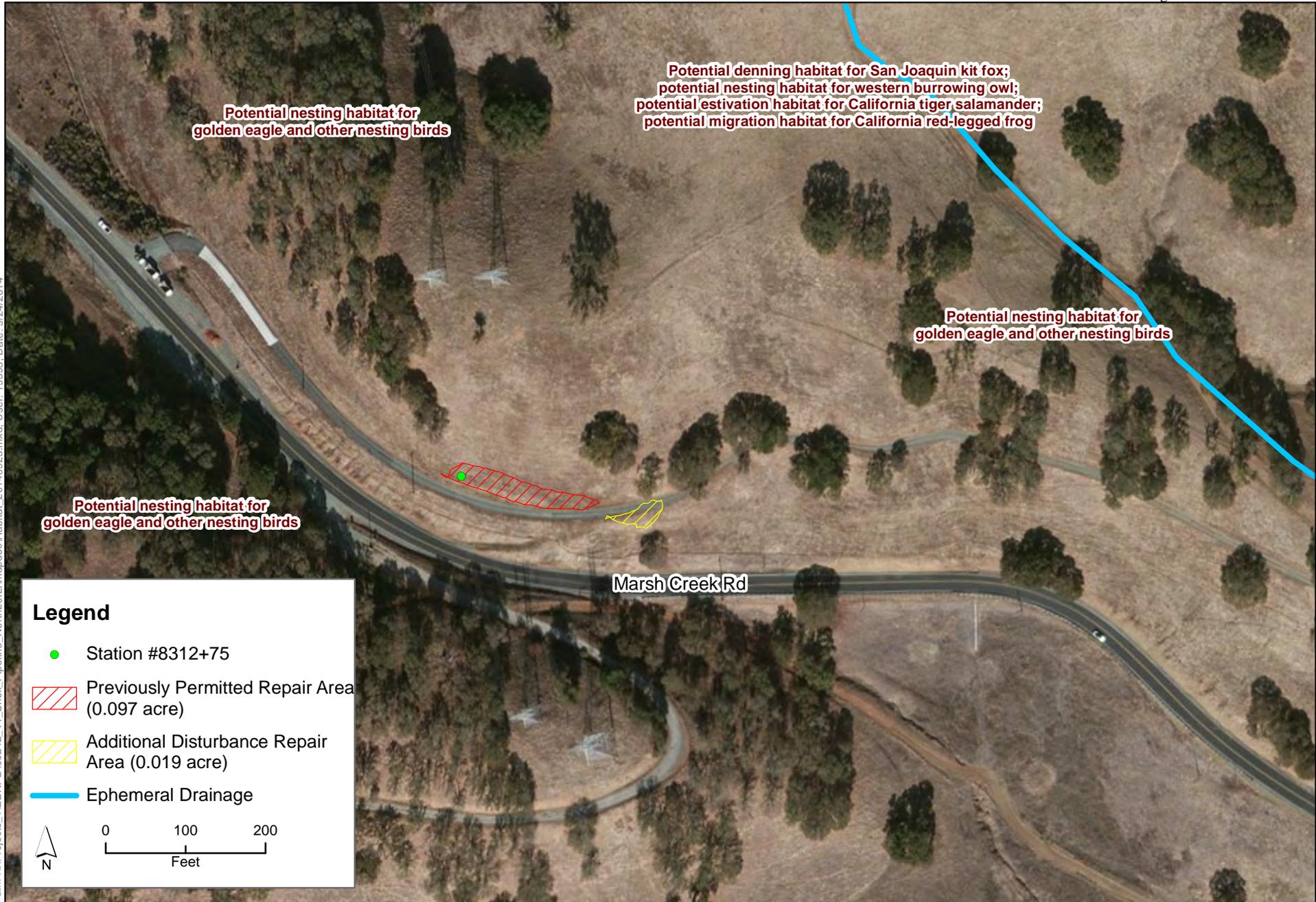
**Photo 3.** Looking southwest at project site



**Photo 4.** Looking southeast at extension of repair south of CCWD access road (outside permitted area)

**Figure 3b. Representative Photographs of Shell Pipeline Repair Project Site**

Path: K:\Projects\_1\EBRPD\00242\_14\_Shell\_Pipeline\_North20\ILImapdoc\Habitat\_20140923.mxd; User: 19393; Date: 9/24/2014



Revised Figure 4  
Habitat Map  
Shell Pipeline North 20 ILI Repair Project on East Bay Regional Park District

**EAST CONTRA COSTA COUNTY  
HABITAT CONSERVANCY**

**DATE:** October 27, 2014  
**TO:** Governing Board  
**FROM:** Conservancy Staff (Joanne Chiu)  
**SUBJECT:** Agreement Amendment with Pacific Gas and Electric Company

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**RECOMMENDATION**

Consider the following actions related to extending take coverage to Pacific Gas and Electric Company for the Contra Costa-Moraga 230 Kilovolt Transmission Line Reconductoring Project.

- A. **AUTHORIZE** staff to file a Notice of Determination for this Board action with the County Clerk.
  
- B. **AUTHORIZE** Interim Executive Director to execute a First Amendment to the Participating Special Entity Agreement with PG&E for take coverage of the Contra Costa-Moraga 230 kV Transmission Line Reconductoring Project, as further described in Addendum 1.0 to the Planning Survey Report, provided the Wildlife Agencies concur with the First Amendment.

**DISCUSSION**

**ITEM (A). California Environmental Quality Act (CEQA):** The Board’s decision to authorize the Interim Executive Director to execute a First Amendment to the Participating Special Entity (PSE) Agreement and to extend take authorization under the First Amendment to PSE Agreement to Pacific Gas and Electric Company (“PG&E”) for the PG&E Contra Costa-Moraga 230 Kilovolt Transmission Line Reconductoring Project (“PG&E Project” of “Project”. is a discretionary action subject to CEQA. For the Project, the State Water Resources Control Board (“Water Board”) is the CEQA lead agency. The Water Board prepared the Initial Study /

CONTINUED ON ATTACHMENT: Yes  
ACTION OF BOARD ON: October 27, 2014 APPROVED AS RECOMMENDED: \_\_\_\_\_  
OTHER: \_\_\_\_\_

**VOTE OF BOARD MEMBERS**

     UNANIMOUS  
  
AYES: \_\_\_\_\_  
NOES: \_\_\_\_\_  
ABSENT: \_\_\_\_\_  
ABSTAIN: \_\_\_\_\_

I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF AN ACTION TAKEN AND ENTERED ON THE MEETING RECORD OF THE CONSERVANCY GOVERNING BOARD ON THE DATE SHOWN.

ATTESTED \_\_\_\_\_  
*John Kopchik, INTERIM SECRETARY OF THE EAST CONTRA COSTA COUNTY  
HABITAT CONSERVANCY*

BY: \_\_\_\_\_, DEPUTY

Mitigated Negative Declaration for the Contra Costa-Moraga 230 kV Transmission Line Reconductoring Project (“IS/MND”) (State Clearinghouse number 2013102015), dated July 15, 2014. The Conservancy is a CEQA responsible agency for purposes of the Project and, as such, will rely on the IS/MND prepared by the Water Board for purposes of fulfilling its responsibilities under CEQA. After the August 25, 2014 approval by the Board, staff filed a Notice of Determination with the County Clerk.

The proposed modifications to the project description were reviewed by the State Water Resources Control Board and they determined that the Mitigated Negative Declaration for the Project, as documented in the Notice of Determination posted at the State Clearinghouse on July 15, 2014, is still current and adequate (reference Attachment A). Conservancy staff concurs with the Findings adopted by the Water Board on July 15, 2014 and finds that the impacts of the PG&E Reconductoring Project, as revised in the Addendum, are fully disclosed and analyzed in the IS/MND, and that for each significant impact identified in the IS/MND, PG&E has proposed measures included in the project description and included mitigation measures to reduce the impacts to a less than significant level. If this action is approved by the Conservancy Board, staff will file a Notice of Determination with the County Clerk to reflect this action.

**ITEM (B).** At the August 25, 2014 meeting, the Board authorized staff to execute a PSE Agreement with PG&E for the Project. To maintain service reliability and meet increasing electric load demands in Contra Costa County, PG&E will replace approximately 11.8 miles of the 230 kV transmission line between Contra Costa and Tower 56 on approximately 30 existing towers in the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan (“HCP/NCCP”) area, as further described in Exhibit 1, the PSR. The Project will minimize the potential for future power demand overloads and ensure service reliability.

On October 2, 2014, the PSE Agreement was executed. PG&E has paid all the mitigation and contribution to recovery fees as required in the PSE Agreement. The Conservancy subsequently issued the Certificate of Inclusion, authorizing activities to commence.

PG&E is requesting an amendment to the PSE Agreement and associated Exhibit 1 to address changes to the project description resulting from a refinement of the detailed design for the PG&E Reconductoring Project. The revised plans typically involve minor changes in the locations of pull sites, landing zones, and access routes, as more specifically described below. **These alterations result in an overall reduction of impact acreage covered under the HCP/NCCP permit.**

The proposed modifications to the project description are as follows:

- Removal of previously identified landing zone and work area/pull site
- Removal, addition, and rescaling of previously identified transmission line conductor pull site
- Removal, addition, and rescaling of previously identified landing zone
- Addition of work area to install four additional crossing structures
- Removal, addition, and rescaling of previously identified pull sites
- Removal, addition, and re-routing of temporary access routes to the areas described above

The proposed project site description and impact areas would be the same as the approved PSR with the exception of the modifications listed above, and detailed in Addendum 1.0 to the PSR. A complete description of the proposed changes and the resulting impacts associated with the original PSR and Certification of Inclusion are described in Addendum 1.0.

To process modifications to the project description and receive incidental permit coverage under the HCP/NCCP by way of the First Amendment, the Conservancy and PG&E must execute an Amendment to the PSE Agreement obligating compliance with the applicable terms and conditions of the Implementing Agreement, the HCP/NCCP, and the state and federal permits. The Conservancy staff has prepared and PG&E agrees with the terms of the proposed First Amendment to the PSE Agreement for the Project (attached).

Attached, and to be incorporated as Exhibit 1 to the PSE Agreement, is Addendum 1.0 to the PSR prepared by Insignia (the biological consulting firm hired by PG&E to complete the Addendum) in consultation with Conservancy staff. Addendum 1.0 describes the refinements to the project and contains a construction area change summary table outlining impact changes which links to the updated Table 1. All the impact changes have been reviewed and approved by Staff.

The amendment required PG&E to conduct additional planning-level surveys where new impacts are located and for areas that were previously not surveyed. The modifications in the project area do not introduce impacts to special status species that haven't already been analyzed in the IS/MND or the PSR.

The pre-construction surveys and avoidance/minimization/construction monitoring measure requirements did not change as a result of the First Amendment. The applicant provided updated land cover and impact maps that depict the project as originally proposed compared to the amendment in order to clearly depict how the project area is changing by way of the First Amendment (Attachment B to Addendum 1.0).

**Key Provisions of the First Amendment to the PSE Agreement:**

- The First Amendment results in changes to the impact acres to be covered under the HCP/NCCP permit. These changes are reflected in the table below (see Addendum 1.0, Executive Summary for a more detailed breakdown):

<b>Land Cover Type</b>	<b>Original PSR Temporary Impacts (acres)</b>	<b>Addendum 1.0 Temporary Impacts (acres)</b>
Annual Grassland	5.3	5.04
Ruderal	13.0	12.19
Vineyard	0.3	0.27
Urban (exempt from fees)	4.2	4.55
Turf (exempt from fees)	0.1	0.49
<b>Total Impacts (to non-exempt land cover types)</b>	<b>18.6</b>	<b>17.51</b>

- The PSE Agreement provides that PG&E will reimburse the Conservancy for staff costs associated with processing the request for take coverage, up to a maximum reimbursement of \$25,000. The cap on administrative costs will not be increased.
- To date, PG&E has paid the Conservancy \$362,762.12, as set forth in the PSE Agreement, which includes all HCP/NCCP development fees necessary for the Project, including the Contribution to Recovery. Since the Project results in a net decrease in impact acreage, PG&E does not owe additional mitigation fees nor additional Contribution to Recovery per the First Amendment.
- The table below summarizes the HCP/NCCP fee changes for the Project:

	<b>Development Fee</b>	<b>Contribution to Recovery</b>	<b>Total</b>
<b>Original PSE Agreement</b>	<b>\$329,783.75</b>	<b>\$32,978.37</b>	<b>\$362,762.12</b>
<b>First Amendment</b>	<b>\$309,830.63</b>	<b>\$30,983.06</b>	<b>\$340,813.70</b>
<b>Difference (amount to be credited towards Administrative Costs)</b>			<b>\$21,948.42</b>

**Next Steps:** If the Conservancy Governing Board authorizes staff to execute the First Amendment to the PSE Agreement, key next steps in granting take coverage would be as follows:

- PG&E signs the First Amendment.
- Staff will ask the Wildlife Agencies to review the First Amendment and Addendum 1.0 and to concur that the First Amendment and Addendum 1.0 includes all applicable requirements of the HCP/NCCP with regard to the Project and imposes a duty on PG&E to implement them. If, and only if, the Wildlife agencies concur, the Interim Executive Director of the Conservancy will sign the First Amendment. Note: PSE agreements and any amendments thereof, unlike the granting of take authorization by a participating City or County, require concurrence from the Wildlife Agencies.
- PG&E pays all required mitigation, Contribution to Recovery, and Administrative Costs (to-date, as set forth in an invoice to be provided to PG&E by Conservancy staff), as outlined in the First Amendment. In this case, no additional mitigation fees and Contribution to Recovery are due.
- The Conservancy issues PG&E an updated Certificate of Inclusion, consistent with the First Amendment. Take authorization would then be in effect, subject to the terms of the First Amendment to the PSE Agreement.
- PG&E conducts pre-construction surveys to determine which species-specific avoidance and minimization measures are required during construction.

- PG&E develops and submits a construction monitoring plan to the Conservancy in accordance to Section 6.3.3 of the HCP/NCCP.
- PG&E implements the Project subject to the terms of the First Amendment.

**Attachments:**

- **Letter from Brian Dailey with State Water Resources Control Board**
- **First Amendment to the PSE Agreement, including:**
  - Main body of the amendment
  - Exhibit 1: Addendum 1.0
    - Main body of the addendum
    - Fee Calculator (Table 6)
    - Updated Project Description (Attachment A)
    - Updated Impact and Land Cover Maps (Attachment B)

**Joanne Chiu**

---

**From:** Dailey, Brian@Waterboards <Brian.Dailey@waterboards.ca.gov>  
**Sent:** Friday, October 17, 2014 10:41 AM  
**To:** Joanne Chiu  
**Cc:** Trixie Martelino (mtmu@pge.com) (mtmu@pge.com); Rob Curley (RCurley@insigniaenv.com)  
**Subject:** PG&E's Contra Costa-Moraga Reconductoring Project - CEQA

The State Water Resources Control Board (State Water Board), acting as lead agency for CEQA compliance for the PG&E Contra Costa-Moraga Reconductoring Project (Project), has reviewed the several minor changes proposed by the Applicant (PG&E ) for the Project. The State Water Board finds that the Mitigated Negative Declaration for the Project, as documented in the Notice of Determination posted at the State Clearinghouse on July 16, 2014, is still current and adequate.

The numerous minor changes to the Project since issuance of the Notice of Determination have not entailed any new, significantly larger, or substantially different impacts or mitigation measures. Several of the changes have reduced Project impacts. These changes have been documented in the Project's administrative record. These changes have not warranted any new re-publication and noticing. No new negative declaration is needed.

Any impacts that may occur as a result of the proposed Project modifications are adequately mitigated to a level that is less than significant through exercise of existing mitigation measures as documented in the Project Mitigation Monitoring and Reporting Plan.

Please let me know if any further documentation is needed to address this concern.

Brian Dailey  
Division of Water Quality  
401 Certification and Wetlands Unit  
State Water Resources Control Board  
1001 "I" Street, 15<sup>th</sup> Floor  
Sacramento, CA 95814  
[Brian.Dailey@waterboards.ca.gov](mailto:Brian.Dailey@waterboards.ca.gov)  
(916) 341-5462

## FIRST AMENDMENT

### TO THE PARTICIPATING SPECIAL ENTITY AGREEMENT OF THE EAST CONTRA COSTA COUNTY HABITAT CONSERVATION PLAN/ NATURAL COMMUNITY CONSERVATION PLAN AND GRANTING TAKE AUTHORIZATION

Between

the EAST CONTRA COSTA COUNTY HABITAT CONSERVANCY, the Implementing Entity, and PACIFIC GAS AND ELECTRIC COMPANY, a Participating Special Entity

### RECITALS

The Participating Special Entity Agreement between the East Contra Costa County Habitat Conservancy (“Conservancy”) and Pacific Gas and Electric Company (“Participating Special Entity” or “PSE”) was entered into on October 2, 2014 (the “PSE Agreement”).

The PSE Agreement provides, in Section 10.4, that it may be amended with the written consent of both parties.

The Conservancy and PSE wish to amend the terms of the PSE Agreement by way of this First Amendment (the “First Amendment”).

### AMENDMENT

A. The Conservancy and the PSE agree to amend the PSE Agreement as follows:

1. The attached Addendum 1.0 is added to and incorporated within Exhibit 1.
2. Section 3.2 of the Agreement is amended as follows:

“**Application**” means the application submitted by the PSE in accordance with Chapter 8.4 of the HCP/NCCP, [including Addendum 1.0, which describes minor modifications to the Project description of the Project site](#), and which is attached hereto as Exhibit 1. The Application contains a cover sheet, the results of required planning surveys and the avoidance, minimization and mitigation measures that will be a condition of the PSE using Conservancy’s Permits.

3. Section 5.4 of the Agreement is amended as follows:

As set forth in the Application, PSE agrees to pay the Conservancy a one-time payment of \$~~340,813.70~~ ~~362,762.12~~, which amount includes all HCP/NCCP mitigation fees necessary for the Project. The payment also includes an amount sufficient to implement additional actions that will contribute to the recovery of endangered and threatened species (“Contribution to Recovery”). The overall payment amount is the sum of the following:

Temporary Impact Development Fee: \$ ~~309,830.63~~ ~~329,783.75~~

Contribution to Recovery: \$ ~~30,983.06~~ ~~32,978.37~~

As of the effective date of this First Amendment, PSE has submitted payment for \$362,762.12 in accordance with the PSE Agreement dated October 2, 2014. The reduction in fees for the First Amendment totals \$21,948.42, which will be applied towards Administrative Costs, as provided in Section 7.6 of the Agreement. ~~The payment must be paid in full before any ground disturbance associated with the Project occurs.~~ Notwithstanding the above, the Parties acknowledge that the Conservancy adjusts its fee schedule annually on March 15 of each year in accordance with the fee adjustment provisions of Chapter 9.3.1 of the HCP/NCCP. If the PSE pays before March 15, 2015 and construction of the Project commences before March 15, 2015, the amount due will be as stated above. If PSE pays on or after March 15, 2015 or construction of the Project does not commence before March 15, 2015, the amount due will be subject to annual fee adjustments for all fees, and subject to annual adjustments of the Contribution to Recovery based on the formula set forth in Chapter 9.3.1 for the HCP/NCCP wetland mitigation fee. Based on these adjustments, if PSE pays before March 15 of any year, but construction does not commence before March 15 of that year, PSE will either be required to submit an additional payment for any increases or be entitled to a refund without interest for any decreases.

4. Section 5.2 of the Agreement of the Agreement is amended as follows:

Planning surveys are required prior to carrying out any Covered Activity for which a fee is collected or land in lieu of a fee is provided. PSE has submitted a planning survey report, including Addendum 1.0, for approval by the Conservancy in accordance with Chapter 6.2.1 of the HCP/NCCP. This planning survey report, including Addendum 1.0, ~~is contained within the Application, which~~ describes the results of the planning survey and describes in detail the pre-construction surveys, construction monitoring, avoidance measures and mitigation measures that apply to the Project and shall be performed by PSE. Based on the Application, the Conservancy has determined that PSE will implement and comply with all applicable preconstruction surveys and construction monitoring requirements described in Chapters 6.2.2 and 6.2.3 of the HCP/NCCP.

B. This First Amendment may be executed in counterparts.

- C. All other terms and conditions of the PSE Agreement shall remain as originally agreed.
- D. The Conservancy shall issue a Certificate of Inclusion pursuant to Section 6.1 of the PSE Agreement that is revised to incorporate reference to this First Amendment.
- E. This First Amendment shall take effect on the date after both of the following have occurred:
  - 1. The Conservancy and PSE have executed the First Amendment; and
  - 2. The Conservancy has delivered written notice to PSE that the Conservancy has received written concurrence from the Wildlife Agencies regarding the First Amendment in accordance with Section 6.1 of the PSE Agreement.

**IN WITNESS WHEREOF**, the Conservancy and PSE hereto execute this First Amendment.

**THE EAST CONTRA COSTA COUNTY HABITAT CONSERVANCY**

By: \_\_\_\_\_  
JOHN KOPCHIK  
Interim Secretary

Date: \_\_\_\_\_

By: \_\_\_\_\_  
ABIGAIL FATEMAN  
Interim Executive Director

Date: \_\_\_\_\_

**PACIFIC GAS AND ELECTRIC COMPANY**

By: \_\_\_\_\_  
STEVEN FERRARA  
Director, Environmental Management

Date: \_\_\_\_\_

**EXHIBIT 1**

**PARTICIPATING SPECIAL ENTITY  
PLANNING SURVEY REPORT  
ADDENDUM 1.0**

**To Comply with and Receive Permit Coverage Under  
The East Contra Costa County Habitat Conservation Plan  
And Natural Community Conservation Plan**

**FOR THE**

**Pacific Gas & Electric Company  
Contra Costa-Moraga 230 kV Transmission Line  
Reconductoring Project**

**SUBMITTED BY:**

Pacific Gas & Electric Company  
245 Market Street  
Mail Code N10A  
San Francisco, CA 94105

Trixie Martelino  
(415) 973-1161  
MTMU@pge.com

**PREPARED BY:**

Insignia Environmental  
258 High Street  
Palo Alto, CA 94301

Robert Curley  
(650) 321-6787  
rcurley@insigniaenv.com

## EXECUTIVE SUMMARY

Pacific Gas and Electric Company (PG&E) submitted an Application Form and Planning Survey Report for the Contra Costa-Moraga 230 Kilovolt Reconductoring Project (project) on August 19, 2014 to the East Contra Costa County Habitat Conservancy. The project was subsequently placed on the agenda for the East Contra Costa County Habitat Conservancy's August 25, 2014 Board of Director's Meeting. During this meeting, PG&E was approved to act as a Participating Special Entity under the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan.

Since the time of the approval, PG&E has identified the following construction area refinements that should be incorporated into the project:

1. Remove Landing Zone (LZ) 4 and Work Area/Pull Site (WA/PS) 11B.
2. Remove Pull Site (PS) 29, but add PS 22 within Chichibu Park.
3. Remove LZ 35 near the Black Diamond Mines Regional Preserve office, but add a replacement landing zone (LZ 35A) at a capped landfill north of James Donlon Boulevard in Antioch.
4. Add WA 40 in the vicinity of Tower 40 to allow for the installation of four additional crossing structures to protect the Pittsburg-Tesla 230 kV Transmission Line during pulling operations. In addition, eliminate all grading at PS 41A North and PS 41A South by adding the use of an existing access road adjacent to Tower 41.
5. Consolidate PS 49, PS 50, and PS 63 into PS 55 within a previously disturbed, undeveloped lot in the City of Concord. This lot is adjacent to an existing quarry truck route.

These changes would reduce the overall footprint of the project, eliminate the need for grading in some locations, and increase the overall efficiency of the construction process. This Addendum describes the location of these construction area refinements, identifies all locations within PG&E's August 19, 2014 Application Form and Planning Survey Report that would be changed as a result of these refinements, and provides updated versions of these sections in a red-line/strike-out format.

## **1 – REFINEMENT DESCRIPTIONS**

Since the time of PG&E's submittal of the August 18, 2014 Application Form and Planning Survey Report for the project, five construction area refinements that should be incorporated into the project have been identified. A detailed description of each of these refinements has been included in the subsections that follow.

### **1.0 REMOVE LANDING ZONE (LZ) 4 AND WORK AREA/PULL SITE (WA/PS) 11B**

In order to reduce the project's footprint, PG&E is proposing to remove LZ 4, located in an undeveloped portion of the City of Antioch. WA/PS 11B is currently located within a recently developed Bay Area Rapid Transit (BART) station parking lot. In order to reduce disruption to this BART station, PG&E is proposing to remove WA/PS 11B as an alternative to WA/PS 11A.

#### **1.1 REMOVE PS 29, BUT ADD PS 22**

It was determined that use of PS 29 could inconvenience residential uses and partially obstruct road access for up to 3 months during construction. To reduce this disruption, PG&E is proposing to replace PS 29 with PS 22 in Chichibu Park in the City of Antioch.

PS 22 would be located approximately 75 feet east of Tower 22 and would measure approximately 290 feet by 75 feet. This site would be located entirely within PG&E's right-of-way and within the developed area of Chichibu Park, and would be accessed along an existing walking trail from Longview Road. Due to the relatively flat topography in this location, no additional grading or vegetation removal would be required to utilize this construction area; however, geotechnical fabric and gravel may be applied to the surface of the pull site prior to use. In addition, a chain-link fence would be temporarily installed along the perimeter of the pull site and the location would be guarded 24 hours per day, 7 days per week and a noise barrier would be installed between the pull site, adjacent residences, and Sutter Elementary School to minimize noise emissions from project activities. Following construction, the fence, noise barrier, gravel, and geotechnical fabric would be removed, and any damaged portions of the park from the use of PS 22 would be restored to pre-construction conditions.

#### **1.2 REMOVE LZ 35 AND REPLACE WITH LZ 35A**

Use of LZ 35 would inconvenience the East Bay Regional Park District's (EBRPD's) office at the Black Diamond Mines Regional Preserve. In addition, temporary access restrictions for recreational users would be required within this area for up to 2 months. To reduce this inconvenience and the access restrictions, PG&E proposes to eliminate this landing zone and establish LZ 35A north of James Donlon Boulevard in the City of Antioch.

LZ 35A would be located within a capped landfill and would measure approximately 200 feet by 200 feet. The site would be accessed by existing paved and gravel access roads from James Donlon Boulevard. Due to the relatively flat topography in this location, no additional grading or vegetation removal would be required to utilize this construction area; however, geotechnical fabric and gravel may be applied to the surface of the landing zone prior to use. Following

construction, all placed materials would be removed and the site would be returned to pre-construction conditions.

Due to the potential presence of burrowing owl during construction, PG&E is anticipating that the location of LZ 35A may need to be adjusted within the landfill area. If LZ 35A is adjusted to account for conditions at the time of construction, the size of the site will not be increased. In order to account for this adjustment, an additional approximately 100 feet of overland access has been included to connect LZ 35A to the existing gravel access road that traverses the landfill. The extent of the potential locations for LZ 35A has been depicted on Figure 2: Detailed Project Map.

### **1.3 ADD WA 40 AND AVOID GRADING AT PS 41A NORTH AND SOUTH**

As described in the Application Form and Planning Survey Report, crossing structures would be used to protect existing facilities during pulling operations, including other energized power lines that are spanned by the project. Since the submittal of the previous Application Form and Planning Survey Report, PG&E discovered that crossing structures had not been included to specifically protect the Pittsburg-Tesla 230 kV Transmission Line. PG&E is proposing to include four crossing structures within a new work area (WA 40). Construction activities within WA 40 would be limited to the temporary placement of four poles. WA 40 would measure approximately 80 feet by 80 feet and be located approximately 180 feet east of Tower 40, as depicted in Attachment B: Detailed Refinement Map. The four crossing structures have been placed within WA 40 as the final crossing structure locations may need to be adjusted within this work area to account for conditions at the time of construction. The entire work area would be located in an area of non-native annual grassland. Minimal vegetation removal and mowing is anticipated in this location, and no grading would be required. As with other locations, the site would be restored to pre-construction conditions following its use.

PG&E also proposes to avoid extensive grading at PS 41A North and South by extending the use of an existing access road adjacent to Tower 41 to park and operate a puller truck. Gravel would be placed along an approximately 120-foot section of this road; however, the existing road's footprint would not be expanded during construction. Though no grading would be required at PS 41A North and South, geotechnical fabric and gravel would continue to be placed. Following construction, all placed materials would be removed and the site would be restored to pre-construction conditions.

### **1.4 CONSOLIDATE PS 49 AND PS 50 INTO PS 55**

PG&E proposes to reduce the construction footprint by removing PS 49 and PS 50 by consolidating these construction areas into one site—PS 55.<sup>1</sup> PS 55 would be located in the Town of Clayton, within an undeveloped but previously disturbed lot that is adjacent to an active quarry truck route (Mitchell Canyon Road). PS 55 would also abut an abandoned firehouse and single-family residences. The pull site would measure approximately 200 feet by 70 feet and would be located near the intersection of Clayton Road and Mitchell Canyon Road. Due to the

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<sup>1</sup> PS 63, which is located outside of the ECCC HCP/NCCP and which involves temporary fill of an ephemeral stream, would also be eliminated as a result of adding PS 55.

relatively flat topography in this location, site preparation activities would be limited to minor vegetation mowing and the potential placement of geotechnical fabric and gravel prior to use.

## 1.5 SUMMARY

As indicated in the Construction Area Change Summary Table that follows, the proposed refinements would result in a net reduction of approximately 0.38 acre in the project's construction footprint within the ECCC HCP/NCCP area with the incorporation of the refinements. Figure 2: Detailed Project Map, Figure 3a: Land Cover within ECCC HCP/NCCP Area, and Figure 4: Biological Survey Results within ECCC HCP/NCCP Area have been updated to depict the proposed refinements.

**Construction Area Change Summary Table**

Construction Area	Existing Land Cover	Approximate Size (acres)
<i>Added</i>		
PS 22	Turf	0.44
	Urban	0.05
LZ 35A	Non-native annual grassland	0.92
Access to LZ 35A (gravel)	Urban	0.42
Access to LZ 35A (overland)	Non-native annual grassland	0.04
WA 40	Non-native annual grassland	0.15
Access to WA 40 (dirt)	Ruderal	0.05
Access Road Adjacent to Tower 41 (to operate puller truck)	Ruderal	0.03
PS 55	Urban	0.27
<b>Subtotal</b>	--	<b>2.36</b>
<i>Removed</i>		
LZ 4	Ruderal	(0.80)
Access to LZ 4 (dirt road)	Ruderal	(0.13)
WA/PS 11B	Developed/Ruderal	--*
PS 29	Non-native annual grassland	(0.29)
	Urban	(0.23)
LZ 35	Non-native annual grassland	(0.43)
Access to LZ 35 (gravel)	Urban	(0.15)
Access to LZ 35 (overland)	Grassland	(0.01)
PS 49	Non-native annual grassland	(0.42)
	Urban	(0.05)

<b>Construction Area</b>	<b>Existing Land Cover</b>	<b>Approximate Size (acres)</b>
PS 50	Non-native annual grassland	(0.21)
	Turf	(0.01)
<b>Subtotal</b>	--	<b>(2.74)</b>
<b>Total</b>	--	<b>(0.38)</b>

\* WA/PS 11B would only be established if WA/PS 11A was determined to be infeasible. Because WA/PS 11B is smaller than WA/PS 11A and only one would be used during construction, it was omitted from the impact area calculation in the original Application Form and Planning Survey Report. As a result, removing it from the project would not affect the calculated project footprint.

## 2 – APPLICATION FORM AND PLANNING SURVEY REPORT MODIFICATIONS

### I. Project Overview – Pages 3 and 4

The following two entries should be revised to reflect the refinements to the project:

**Total Parcel Acreage<sup>2</sup>:** ~~22.93~~ 22.55

**Acreage of land to be temporarily disturbed<sup>3</sup>:** This project involves approximately ~~22.93~~ 22.55 acres of temporary impacts in the ECCC HCP/NCCP Area. ~~18.6~~ 17.51 acres is located in non-exempt areas. PG&E will mitigate for these temporary impacts using the permanent impact fees consistent with Chapter 9.3.1 of the ECCC HCP/NCCP.

### II. Existing Conditions and Impacts

#### *Land Cover Types – Pages 5 through 7*

Table 1. Land Cover Types on the Project Site as Determined in the Field and Shown on Figure 3a should be revised as follows:

Land Cover Type (acres, except where noted)	Acreage of Land to be “Permanently Disturbed” by Project <sup>b</sup>	Acreage of Land to be “Temporarily Disturbed” by Project <sup>b</sup>	Acreage of Land Proposed for HCP/NCCP Dedication on the Parcel <sup>c</sup>	
			Stream Setback	Preserve System Dedication
<b>Grassland<sup>a</sup></b>				
<input checked="" type="checkbox"/> Annual grassland		<del>5.3</del> 5.04		
<input type="checkbox"/> Alkali grassland				
<input checked="" type="checkbox"/> Ruderal		<del>13.0</del> 12.19		
<input type="checkbox"/> Chaparral and scrub				
<input type="checkbox"/> Oak savanna <sup>a</sup>				
<input type="checkbox"/> Oak woodland				
<b>Jurisdictional wetlands and waters</b>				
<input type="checkbox"/> Riparian woodland/scrub				
<input type="checkbox"/> Permanent wetland <sup>a</sup>				
<input type="checkbox"/> Seasonal wetland <sup>a</sup>				

<sup>2</sup> The value presented indicates the area of total temporary disturbance, not the total size of all parcels that will be disturbed during construction.

<sup>3</sup> Acreage of land temporarily disturbed is broadly defined in the HCP/NCCP as any impact on vegetation or habitat that does not result in permanent habitat removal (i.e. vegetation can eventually recover).

Land Cover Type (acres, except where noted)	Acreage of Land to be “Permanently Disturbed” by Project <sup>b</sup>	Acreage of Land to be “Temporarily Disturbed” by Project <sup>b</sup>	Acreage of Land Proposed for HCP/NCCP Dedication on the Parcel <sup>c</sup>	
			Stream Setback	Preserve System Dedication
<input type="checkbox"/> Alkali wetland <sup>a</sup>				
<input type="checkbox"/> Aquatic (Reservoir/Open Water) <sup>a</sup>				
<input type="checkbox"/> Slough/Channel <sup>a</sup>				
<input type="checkbox"/> Pond <sup>a</sup>				
<input type="checkbox"/> Stream (acres) <sup>a, d</sup>				
<input type="checkbox"/> Total stream length (feet) <small>a, d</small>				
Stream length by width category				
<input type="checkbox"/> ≤ 25 feet wide				
<input type="checkbox"/> > 25 feet wide				
Stream length by type and order <sup>e</sup>				
<input type="checkbox"/> Perennial				
<input type="checkbox"/> Intermittent				
<input type="checkbox"/> Ephemeral, 3 <sup>rd</sup> or higher order				
<input type="checkbox"/> Ephemeral, 1 <sup>st</sup> or 2 <sup>nd</sup> order				
<b>Irrigated agriculture<sup>a</sup></b>				
<input type="checkbox"/> Cropland				
<input type="checkbox"/> Pasture				
<input type="checkbox"/> Orchard				
<input checked="" type="checkbox"/> Vineyard		0.3 0.27		
<b>Other</b>				
<input type="checkbox"/> Nonnative woodland				
<input type="checkbox"/> Wind turbines				
<b>Developed</b>				
<input checked="" type="checkbox"/> Urban		4.2 4.55		
<input type="checkbox"/> Aqueduct				
<input checked="" type="checkbox"/> Turf		0.1 0.49		
<input type="checkbox"/> Landfill				
<b>Uncommon Vegetation Types (subtypes of above land cover types)</b>				
<input type="checkbox"/> Purple needlegrass grassland				

Land Cover Type (acres, except where noted)	Acreage of Land to be “Permanently Disturbed” by Project <sup>b</sup>	Acreage of Land to be “Temporarily Disturbed” by Project <sup>b</sup>	Acreage of Land Proposed for HCP/NCCP Dedication on the Parcel <sup>c</sup>	
			Stream Setback	Preserve System Dedication
<input type="checkbox"/> Wildrye grassland				
<input type="checkbox"/> Wildflower fields				
<input type="checkbox"/> Squirreltail grassland				
<input type="checkbox"/> One-sided bluegrass grassland				
<input type="checkbox"/> Serpentine grassland				
<input type="checkbox"/> Saltgrass grassland (= alkali grassland)				
<input type="checkbox"/> Alkali sacaton bunchgrass grassland				
<input type="checkbox"/> Other uncommon vegetation types (please describe)				
<b>Uncommon Landscape Features or Habitat Elements</b>				
<input type="checkbox"/> Rock outcrop				
<input type="checkbox"/> Cave <sup>a</sup>				
<input type="checkbox"/> Springs/seeps				
<input type="checkbox"/> Scalds				
<input type="checkbox"/> Sand deposits				
<input type="checkbox"/> Mines <sup>a</sup>				
<input type="checkbox"/> Buildings (bat roosts) <sup>a</sup>				
<input type="checkbox"/> Potential nest sites (trees or cliffs) <sup>a</sup>				
<b>Total Impacted Acres</b>	<b>0</b>	<b>18.6 17.51 (4.3 5.04 exempt)</b>	<b>0</b>	<b>0</b>

<sup>a</sup> Designates habitat elements that may trigger specific survey requirements and/or best management practices for key covered wildlife species. See Chapter 6 in the HCP/NCCP for details.

<sup>b</sup> See Section 9.3.1 of the HCP/NCCP for a definition of “permanently disturbed” and “temporarily disturbed.” In nearly all cases, all land in the subject parcel is considered permanently disturbed.

<sup>c</sup> Dedication of land in lieu of fees must be approved by the local agency and the Implementing Entity before they can be credited toward HCP/NCCP fees. See Section 8.6.7 on page 8-32 of the Plan for details on this provision. Stream setback requirements are described in Conservation Measure 1.7 in Section 6.4.1 and in Table 6-2.

<sup>d</sup> Specific requirements on streams are discussed in detail in the HCP/NCCP. Stream setback requirements pertaining to stream type and order can be found in Table 6-2. Impact fees and boundary determination methods pertaining to stream width can be found in Table 9-5. Restoration/creation requirements in lieu of fees depend on stream type and can be found in Tables 5-16 and 5-17.

<sup>e</sup> See glossary (Appendix A) for definition of stream type and order.

### ***Results of Species Specific Planning Surveys – Pages 10 through 12***

The planning survey discussion related to San Joaquin kit fox should be revised as follows:

The nearest CNDDDB occurrence of San Joaquin kit fox was recorded in 1992 near Tower 38, approximately 0.75 mile northeast of Pull Site 41A North, and approximately 0.75 mile west of Landing Zone 35. Two other occurrences were also documented near the project, approximately 1.25 miles southeast of ~~Pull Site Work Area 29, and approximately 0.75 mile south of Landing Zone 35.~~ However, an analysis of San Joaquin kit fox sightings in the CNDDDB published in 2007 concluded that many sightings of San Joaquin kit fox may have been juvenile coyotes. None of the occurrences reviewed for the project were documented with photographs. During reconnaissance-level biological surveys, no burrows large enough to support San Joaquin kit fox dens were seen within or immediately adjacent to any of the temporary construction areas. However, existing California ground squirrel burrows, which are often enlarged by San Joaquin kit foxes, were present in some of the identified construction areas. In 2009, Insignia biologists conducted San Joaquin kit fox surveys in support of Phase II of PG&E's Contra Costa-Las Positas 230 kV Transmission Line Reconductoring Project, which partially overlaps with the Contra Costa-Moraga 230 kV Reconductoring Project at its northern end. No foxes (*Vulpes* spp.), scat, or tracks were noted during these surveys. Suitable foraging and potential denning habitat is present at approximately five of ~~41~~ 40 total construction areas, and four CNDDDB occurrences of this species are located within 1 mile of the project; therefore, this species has some potential to occur.

As required by the planning surveys, potential breeding and denning habitat, including any appropriately-sized suitable dens, for San Joaquin kit fox will be evaluated within 30 days of planned construction, in accordance with standard survey protocols. It is anticipated that approximately ~~3.38~~ 2.96 acres of suitable foraging habitat and potential denning habitat within the ECCC HCP/NCCP Area will be temporarily disturbed as a result of construction of the project.

The planning survey discussion related to Western burrowing owl should be revised as follows:

To determine the status of burrowing owls in the project area, wintering surveys (between September 1 and January 31) and breeding surveys (between February 1 and August 31) for burrowing owls were conducted in the 2012/2013 season, with follow-up breeding season surveys repeated in 2014. The initial step for this survey effort involved preparing a detailed habitat assessment by experienced burrowing owl biologists to define areas of suitable habitat. Sarah Chandler of Sequoia Environmental led the assessment of suitable and non-suitable habitat for burrowing owls and Sequoia biologist Ryan Formosa followed-up with detailed site surveys of suitable areas identified during the assessment process. Final results of all burrowing owl surveys will be incorporated in a Burrowing Owl Report scheduled for completion by July of 2014 (Sequoia 2014). All burrowing owl detections to date, including pair and single individual observations have been depicted on Figure 4: Biological Survey Results within ECCC HCP/NCCP

Area Map in Attachment B: Figures. The majority of the burrowing owl detections represented include observations of burrowing owls using main or satellite burrow complexes on multiple occasions, with the same sites repeatedly detected and monitored during the 2013 and 2014 breeding seasons. Breeding surveys for burrowing owl ~~are ongoing and are anticipated to be completed by August 15, 2014~~ were completed in August 2014. A report documenting the survey methods and results is under development.

A reconnaissance-level survey was conducted within 250 feet of the proposed location for LZ 35A. No burrowing owls were detected within the survey area; however, burrowing owl sign (in the form of pellets) were noted at the northern boundary of LZ 35A below an existing valve. Burrowing owl sign (in the form of pellets and a feather) was noted at the existing valve located approximately 770 feet to the east of LZ 35A. Additional burrowing owl sign (in the form of pellets and whitewash) were noted approximately 90 feet south of LZ 35A at another existing valve. Three concentrated burrow areas were noted approximately 250 feet south of LZ 35A. Each concentrated burrow area consisted of between three and six burrows of suitable size; however, no evidence of burrowing owl occupancy was noted.

It is anticipated that approximately ~~44.4~~ 11.4 acres of western burrowing owl habitat within the ECCC HCP/NCCP Area may be temporarily disturbed as a result of project activities. In addition, a total of approximately ~~197.36~~ 205.3 acres of burrowing owl nesting and foraging habitat is present within 500 feet of construction areas within the ECCC HCP/NCCP Area. Suitable burrowing owl habitat within 500 feet of construction areas is shown in Figure 4: Biological Survey Results within ECCC HCP/NCCP Area Map in Attachment B: Figures.

The last paragraph of the planning survey discussion related to Swainson's hawk should be revised as follows:

Between 2008 and 2009, avian surveys associated with a Bay Area Rapid Transit (BART) project adjacent to PG&E's Contra Costa Substation identified two Swainson's hawk nests, approximately 0.35 mile and 0.75 mile east of Work Area/Pull Site 11A. In 2012, BART removed and mitigated for the nest that was located 0.35 mile from Work Area/Pull Site 11A. These nests are depicted in Figure 4: Biological Survey Results within ECCC HCP/NCCP Area Map in Attachment B: Figures. In 2012, PG&E commissioned a Swainson's hawk nesting survey in support of a gas transmission line project located east of the CC-Moraga Line. The survey detected four Swainson's hawk nests, with the closest located approximately 0.7 mile east of the easternmost construction area, Pull Site 1 East. In 2012, preliminary project surveys only noted a single Swainson's hawk in flight, with no nests detected. In 2013, protocol surveys for Swainson's hawk detected an active nest south of the Contra Costa Power Plant Substation as shown on Figure 4: Biological Survey Results within ECCC HCP/NCCP Area Map in Attachment B: Figures. Protocol surveys for Swainson's hawk to date in 2014 have identified two Swainson's hawk pairs with active nests. The first active

nest is located approximately 0.7 mile south of Pull Site 1, and likely represents the same pair territory detected in 2013, although different nests were selected and used each year. The second active nest detected in 2014 is approximately 0.1 mile from Pull Site 8. Breeding surveys for Swainson's hawk ~~are ongoing and are anticipated to be completed by August 15, 2014~~ were completed in August 2014. ~~A report documenting the survey methods and results is under development.~~ The results from all previous survey years are represented in Figure 4: Biological Survey Results within ECCC HCP/NCCP Area Map in Attachment B: Figures.

***Results of Covered and No-Take Plant Species Planning Surveys Required in Table 2b – Pages 15 and 16***

The following paragraph should be added to the end of the existing discussion regarding covered and no-take plant species:

Nomad Ecology Senior Botanist Heath Bartosh conducted an additional botanical survey in October 2014 at PS 22, LZ 35A, WA 40, and PS 55. While this survey was conducted outside of the appropriate blooming period for the covered and no-take plants listed in Table 2b, it was determined that PS 22, LZ 35A, and PS 55 do not have the potential to support these species due to their current condition and land use. During this survey, it was also determined that WA 40 has the potential to support covered and/or no-take plant species; however, no individuals were identified. If feasible, a second survey of WA 40 will be conducted prior to its anticipated use in April 2015. If any covered or no-take plant species are discovered during this survey, the crossing structures and any overland travel within WA 40 will be sited to avoid impacts to these species.

**V. Mitigation Measures – Page 31**

The temporary impact calculations presented in this discussion and in Table 5. Project Disturbance by Non-Exempt Fee Zone should be updated as follows:

All impacts will be temporary. PG&E is planning to mitigate for these temporary impacts using the permanent impact fees for the footprint of the temporary impacts, consistent with Chapter 9.3.1. PG&E will be temporarily impacting approximately 2.62 acres in Fee Zone 1, approximately ~~5.87~~ 5.68 acres in Fee Zone 2, and approximately ~~10.15~~ 9.21 acres in Fee Zone 4. Table 5 provides a summary of impacts by fee zone and the fee calculations have been included in Table 6, HCP/NCCP Fee Calculator Worksheet.

Approximately ~~4.30~~ 5.09 acres of the project footprint is recognized as having urban or turf land cover types, as identified in Figure 3a: Land Cover within ECCC HCP/NCCP Area Map and Table 5.

With the Contribution to Recovery applied to this project, the final payment due to the Conservancy is ~~\$362,762.12~~ \$340,813.70.

Construction Area	Temporary Impacts (acres)			
	Fee Zone 1	Fee Zone 2	Fee Zone 4	Fee-Exempt Areas
Work Areas, Pull Sites, and Landing Zones	2.42	<del>3.80</del>	<del>8.71</del>	<del>2.51</del>
		3.51	7.90	2.99
Existing Gravel Access Roads	0.00	0.00	0.00	<del>1.04</del>
				1.31
Existing Dirt Access Roads	0.14	<del>1.84</del>	<del>1.02</del>	0.00
		1.92	0.89	
Overland Access Routes	0.00	<del>0.12</del>	0.30	0.01
		0.14		
Crossing Structure Installation Areas	0.06	0.11	0.13	0.73
<b>Total</b>	<b>2.62</b>	<del><b>5.87</b></del>	<del><b>10.15</b></del>	<del><b>4.30</b></del>
		<b>5.68</b>	<b>9.21</b>	<b>5.04</b>

A revised version of Table 6. HCP/NCCP Fee Calculator Worksheet has been provided on the page that follows.

**Attachment A: Project Description**

An updated version of Attachment A: Project Description has been attached to this Addendum. This version incorporates the refinements described in Section 1 – Refinement Descriptions. All modifications have been made in red-line/strike-out form to assist with the identification of changes to the text.

**Attachment B: Figures**

As described previously, Figure 2: Detailed Project Map, Figure 3a: Land Cover within ECCC HCP/NCCP Area, and Figure 4: Biological Survey Results within ECCC HCP/NCCP Area have been updated to depict the proposed refinements identified in Section 1 – Refinement Descriptions.

# TABLE 6: HCP/NCCP FEE CALCULATOR WORKSHEET

## PROJECT APPLICANT INFO:

Project Applicant: Pacific Gas and Electric Company (PG&E)

Project Name: Contra Costa-Moraga 230 Kilovolt Reconductoring Project (project)

APN (s): Various

Date: October 14, 2014 Jurisdiction: Participating Special Entity

### DEVELOPMENT FEE (see appropriate ordinance or HCP/NCCP Figure 9-1 to determine Fee Zone)

	Acreage of land to be temporarily disturbed (from Table 1) <sup>1, 4</sup>	x	Fee per Acre (subject to change on 3/15/15 <sup>2</sup> )	=	
Fee Zone 1	2.62	x	\$11,146.99	=	\$29,205.11
Fee Zone 2	5.68	x	\$22,293.98	=	\$126,629.81
Fee Zone 3	0.00	x	\$5,573.50	=	\$0.00
Fee Zone 4 <sup>3</sup>	9.21	x	\$16,720.49	=	\$153,995.71
<b>Development Fee Total</b>				<b>=</b>	<b>\$309,830.63</b>

### \*\*WETLAND MITIGATION FEE

	Acreage of wetland	x	Fee per Acre (subject to change on 3/15/15 <sup>2</sup> )	=	
Riparian woodland / scrub	0.000	x	\$90,247.12	=	\$0.00
Perennial Wetland	0.000	x	\$132,594.88	=	\$0.00
Seasonal Wetland	0.000	x	\$307,364.17	=	\$0.00
Alkali Wetland	0.000	x	\$310,474.37	=	\$0.00
Ponds	0.000	x	\$168,201.14	=	\$0.00
Aquatic (open water)	0.000	x	\$84,100.57	=	\$0.00
Slough / Channel	0.000	x	\$122,569.82	=	\$0.00

<b>Streams</b>		Linear Feet	x	Fee per Linear Foot	=	
Streams 25 Feet wide or less (Fee is per Linear Foot)		0.00	x	\$342.61	=	\$0.00
Streams greater than 25 feet wide (Fee is per Linear Foot)		0.00	x	\$513.92	=	\$0.00

**Wetland Mitigation Fee Total = \$0.00**

### FEE REDUCTION

Development Fee reduction (authorized by Implementing Entity) for land in lieu of fee \_\_\_\_\_  
 Development Fee reduction (up to 33%, but must be approved by Conservancy) for permanent assessments \_\_\_\_\_  
 Wetland Mitigation Fee reduction (authorized by Implementing Entity) for wetland restoration/creation performed by applicant \_\_\_\_\_

**Reduction Total = \$0.00**

### CALCULATE FINAL FEE

Development Fee Total	\$309,830.63
Wetland Mitigation Fee Total +	\$0.00
<b>Fee Subtotal</b>	<b>\$309,830.63</b>
<b>Contribution to Recovery +</b>	<b>\$30,983.06</b>
<b>TOTAL FEE AMOUNT =</b>	<b>\$340,813.70</b>

**TOTAL AMOUNT PAID PER PSE AGREEMENT DATED 10/2/14 \$362,762.12**  
**DIFFERENCE (TO BE CREDITED TOWARDS ADMINISTRATIVE COSTS) \$21,948.42**

#### Notes:

1 City/County Planning Staff will consult the land cover map in the Final HCP/NCCP and will reduce the acreage subject to the Development Fee by the acreage of the subject property that was identified in the Final HCP/NCCP as urban, turf, landfill or aqueduct land cover.

2 The Conservancy Board adopted a periodic fee audit required by the HCP/NCCP on June 27, 2013. The fee schedule listed above is based on the periodic fee audit as adopted on June 27, 2013 and the automatic adjustment on March 15, 2014.

3 "Fee Zone 4" is not shown on Figure 9.1 of the HCP/NCCP but refers to the fee applicable to those few covered activities located in northeastern Antioch (see page 9-21 of the HCP).

4 All project impacts will be temporary in nature; however, PG&E has elected to pay the full development fee.

**Template date: March 15, 2014**

**ATTACHMENT A: PROJECT DESCRIPTION**

## **ATTACHMENT A: PROJECT DESCRIPTION**

### **1.0 INTRODUCTION**

Pacific Gas and Electric Company (PG&E) proposes to reductor (replace existing conductors with new conductors) the existing CC-Moraga Line between Contra Costa Power Plant Substation, located near the City of Antioch, and Moraga Substation, located in the City of Orinda—a distance of approximately 27 miles. PG&E owns and operates the existing CC-Moraga Line. Approximately half of the project—from Contra Costa Power Plant Substation to Tower 56—is located within the ECCC HCP/NCCP Inventory Area. The project consists of raising (adding height to the top of) and/or reinforcing approximately 64 of 132 existing lattice steel towers, replacing conductor (wire) along the entire approximately 27-mile alignment, and modifying Contra Costa Power Plant Substation, Rossmoor Substation, and Moraga Substation to accept the new conductors. The project will be engineered and constructed pursuant to applicable engineering guidelines and standards (e.g., California Public Utilities Commission [CPUC] General Order Number 95).

Reconductoring the existing CC-Moraga Line will avoid impacts that would be expected to occur with construction of a new transmission line in a new route. In coordination with the reviewing agencies, PG&E has incorporated numerous project modifications to avoid and minimize potential impacts to sensitive wildlife species, drainages, wetlands, and aesthetic resources.

### **1.1 PROJECT LOCATION AND REGIONAL CONTEXT**

The CC-Moraga Line is depicted in Figure 1: Project Vicinity Map of Attachment B: Figures. The area surrounding the project is a mix of residential and commercial developments, industrial and agricultural areas, and undeveloped natural habitats, as described in this section. Approximately half of the project—from Contra Costa Power Plant Substation to Tower 56—is located within the East Contra Cost County Habitat Conservation Plan/Natural Communities Conservation Plan (ECCC HCP/NCCP) Area.<sup>1</sup>

The CC-Moraga Line leaves Contra Costa Power Plant Substation, located at 3325 Wilbur Avenue in the City of Antioch, and heads generally southwest for approximately 2 miles before passing by the eastern fence line of Contra Costa Substation, located at 2111 Hillcrest Avenue in the City of Antioch. The line then spans an active railroad track and State Route 4 near Hillcrest Avenue in City of Antioch. From this point, it continues southwest through residential portions of the City of Antioch for approximately 4 miles. The line continues cross-country for approximately 4 miles in a generally southwest direction until entering the City of Clayton. From this point, the line spans residential land uses within the cities of Clayton and Concord, the ECCC HCP/NCCP boundary, and Clayton Quarry for approximately 3.5 miles. The line continues southwest for approximately 3 miles cross-country, where it enters the City of Walnut Creek. The line continues southwest and spans open space and residential uses for approximately 2.7 miles where it spans Interstate- (I-)680 and enters unincorporated Contra Costa County. After

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<sup>1</sup> This Project Description describes the entire project between Contra Costa Power Plant Substation and Moraga Substation, but specifies which project components are within the ECCC HCP/NCCP Area.

spanning approximately 1 mile of residential areas, the line re-enters the City of Walnut Creek and travels southwest for approximately 1.6 miles, spanning residential areas and a golf course before entering the City of Lafayette. From this point, the line heads west for approximately 1 mile to the Lafayette/Moraga Regional Trail, then enters the Town of Moraga and turns northwest for approximately 1.6 miles to Campolindo High School. The line then heads southwest for approximately 1.2 miles to the City of Orinda, spanning residential areas and Orinda Oaks Park. From this point, the line continues southwest to Moraga Substation, which is located near the intersection of Lost Valley Drive and Valley View Drive in the City of Orinda.

## 1.2 PURPOSE AND NEED AND PROJECT OBJECTIVES

According to a power flow analysis prepared by PG&E in 2009, emergency capacity of the existing double-circuit CC-Moraga Line could be exceeded under peak summer or worst-case power flow conditions. In order to ensure power transmission during peak conditions, PG&E proposes to replace the existing conductors on (reconductor) the CC-Moraga Line with conductors having an increased emergency rating. The existing CC-Moraga Line has a normal summer rating of 826 amperes (amps) (329 megavolt amperes [MVA]), and an emergency rating of 954 amps (380 MVA). The project will replace the existing conductor with conductor that has a higher ampere capacity, (or “ampacity,” i.e., the maximum amount of electrical current a conductor can carry before sustaining immediate or progressive deterioration) of 1,714 amps or 683 MVA, rated to handle a minimum of 1,700 amps under normal summer and emergency conditions.

As a result, the overarching objective of the project is to increase reliability and responsive support in the service area of the CC-Moraga Line during outages within the local system. Specifically, the project will allow PG&E to accomplish the following objectives:

- Help PG&E meet mandates of the California Independent System Operator (CAISO),<sup>2</sup> and
- Increase system reliability during partial system outages.

## 1.3 PROPOSED CONSTRUCTION

For the purposes of this document and to better describe the project’s location, the project is divided into the following three components:

1. Modifying approximately 64 towers along the existing CC-Moraga Line, 30 of which will be within the ECCC HCP/NCCP Area;
2. Reconductoring the entire approximately 27-mile-long CC-Moraga Line between Contra Costa Power Plant Substation and Moraga Substation, approximately 11.8 miles of which will be within the ECCC HCP/NCCP Area; and

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<sup>2</sup> The CAISO is a non-profit public corporation that operates the majority of California’s high-voltage power grid. Its mission is to operate the grid in a reliable and efficient manner, provide fair and open transmission access, promote environmental stewardship, and facilitate effective markets and promote infrastructure development.

3. Modifying Contra Costa Power Plant Substation, Rossmoor Substation, and Moraga Substation, of which Contra Costa Power Plant Substation is within the ECCC HCP/NCCP Area.

The locations of these components that are within the ECCC HCP/NCCP Area are depicted in Figure 1: Project Vicinity Map and Figure 2: Detailed Project Map<sup>3</sup> of Attachment B: Figures, and are described in more detail in the following subsections.

### 1.3.0 Tower Modifications

The existing CC-Moraga Line's double-circuit configuration will be maintained under the project. Because work on the transmission line will be limited to modifications of existing towers and conductor replacement, no modifications to the existing alignment will occur and no towers will be removed or installed. The CC-Moraga Line has no additional linear infrastructure collocated on the existing towers, and no new linear facilities will be added.<sup>4</sup>

The CC-Moraga Line is composed of approximately 132 lattice steel towers with bases that range in size from approximately 20 feet by 20 feet to 45 feet by 45 feet. Each tower is installed on four individual concrete-poured foundations. The towers along the line vary in height between approximately 44 feet and 168 feet tall. Four types of tower modifications—cage extensions, foundation reinforcement, additional reinforcement, and switch installation—will be performed prior to reconductoring. Of the 64 tower modifications, approximately 53 will involve cage extensions, approximately eight will involve foundation reinforcement, approximately 36 will involve the installation of additional steel reinforcing, and approximately two would receive new switches.<sup>5</sup> A helicopter will be used for an estimated 26 of the tower modifications, project-wide.<sup>6</sup> The remaining tower modifications will be performed from project-specific work areas or public roadways. A detailed description of each type of modification has been included in Section 1.4 General Construction Methods.

As noted previously, 30 of the tower modifications will be within the ECCC HCP/NCCP Area. Approximately 23 towers within the ECCC HCP/NCCP area will receive cage extensions, approximately seven will receive foundation reinforcement, and approximately 23 will receive additional reinforcements (some towers may only receive one modification while others will receive multiple). No towers within the ECCC HCP/NCCP area will receive new switches. Approximately nine of these towers will be modified using a helicopter and the remaining 21 will be modified using ground-based crews.

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<sup>3</sup> Figure 2: Detailed Project Map within the ECCC HCP/NCCP Area only depicts the project components and associated construction areas that are within the boundary of the ECCC HCP/NCCP.

<sup>4</sup> Towers 56, 57, and 89 along the CC-Moraga Line have cell sites mounted to them. These facilities provide wireless voice and data services in the area. A cage-top extension has been proposed for Towers 56 and 57 and, as a result, the cell site may have to be repositioned following construction. Switches currently mounted to Tower 102 will need to be replaced as part of the project.

<sup>5</sup> Some towers may only receive one modification while others will receive multiple.

<sup>6</sup> Additional helicopter use might be required, but that will not be determined until the completion of final engineering.

### 1.3.1 Reconductoring

During the reconductoring process, the existing overhead conductors will be replaced with new conductors to increase the capacity of the line.<sup>7</sup> The CC-Moraga Line will maintain its current double-circuit configuration. During the reconductoring process, all existing insulators will be replaced with new, grey, ceramic, non-specular insulators. The new conductors will be installed with an average span length of approximately 1,100 feet and will maintain a minimum ground clearance of 27 feet at maximum operating temperature. The horizontal and vertical spacing between conductors will be approximately 29 and 16.5 feet, respectively.

Within the ECCC HCP/NCCP Area, approximately 11.8 miles of existing overhead conductors will be replaced with new conductors.

### 1.3.2 Substation Modifications

Modifications to Contra Costa Power Plant Substation, Rossmoor Substation, and Moraga Substation will be minor, and will involve the replacement of existing equipment and structures. Of these three substations, only Contra Costa Power Plant Substation is located within the ECCC HCP/NCCP Area. All work associated with these modifications will be performed within existing fence lines and on PG&E-owned property.

- **Contra Costa Power Plant Substation.** At Contra Costa Power Plant Substation, PG&E will replace three 1,200-amp switches with 2,000-amp switches. In addition, PG&E will install new line traps, a coupling capacitor voltage transformer (CCVT), and associated structures. All indoor relays will be replaced by standard integration protection, automation, and control equipment (IPAC).
- **Rossmoor Substation.** At Rossmoor Substation, PG&E will replace four 1,200-amp switches with 2,000-amp switches. Also, PG&E will install new a CCVT, line traps, and associated structures, and will replace indoor relays with standard IPAC.
- **Moraga Substation.** At Moraga Substation, PG&E will replace three 1,200-amp switches with 2,000-amp switches, replace existing structures with new structures, and replace indoor relays with standard IPAC.

## 1.4 GENERAL CONSTRUCTION METHODS

This section includes an overview of the typical methods used in modifying towers and reconductoring existing lines. These methods apply to portions of the project both within and outside the ECCC HCP/NCCP Area. Prior to the start of ground-disturbing activities, PG&E would contact Underground Service Alert to identify underground utilities in the immediate area.

### 1.4.0 Project Equipment

Equipment that may be used during project construction includes the following: a line truck, water truck, 50-ton crane and/or boom truck, rope truck for reconductoring, truck-mounted rope

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<sup>7</sup> Each circuit along the transmission line requires three individual conductors. Due to the double-circuit configuration of the existing line, six conductors would be replaced as part of the project.

puller and conductor tensioner, backhoe or other tracked equipment for tensioning wire, reels of conductor to receive the existing conductor as it is removed, reels of new conductor to “feed out,” and trucks or other equipment to handle the weight of the conductor reels and to move them on and off site. In addition, four-wheel drive pick-up trucks, passenger vehicles, and hand tools will be used. Helicopters will be used to facilitate tower modifications and will also be used to install cage extensions. Typical equipment that will be used during project construction is listed in Table 1: Typical Major Construction Equipment.

#### **1.4.1 Project Access**

To speed construction and minimize intrusion and ground disturbance, tower modification work will be conducted by helicopter to the extent practicable, at approximately 26 of the tower modifications, project-wide. In some areas, such as more developed or urban areas, existing land uses will preclude construction by helicopter, and ground-based crews and equipment will perform the work. A network of existing access roads and overland access routes will be used to supplement public roads to reach these areas. A summary of the access roads/routes that will be used during construction is provided in Table 2: Access Summary Table and the subsections that follow.

##### **Existing Access Roads**

Approximately 12.0 12.1 miles of existing paved, gravel, and dirt access roads will be used during construction to access towers and construction areas project-wide. Typically, these existing roads will be approximately 12 feet wide. The existing paved access roads will not typically require any improvement prior to construction. Existing gravel and dirt access roads may require some improvement prior to use to accommodate safe passage. These improvements may include vegetation removal; minor grading; and/or stabilization using rock, mats, or plates. Improvements will typically be performed within the existing roadway footprint. No new permanent access roads will be constructed as part of the project.

As preliminarily depicted in Figure 2: Detailed Project Map of Attachment B: Figures, approximately ~~9.27~~ 9.68 acres of existing ~~access~~ paved and gravel/dirt ~~access~~ roads (approximately ~~6.5~~ 6.75 miles) within the ECCC HCP/NCCP Area will be used for the project. Approximately 3.0 acres of these roads are dirt and approximately ~~1.0~~ 1.31 acres is gravel.

##### **Overland Access Routes**

Temporary overland access routes will be required to access construction areas not currently accessible on an existing paved, gravel, or dirt road. These approximately 12-foot-wide routes typically will require mowing, if necessary, to create a visible driving surface and protect against fires. Some routes may also require stabilization using rock, mats, and/or plates prior to use. Following the completion of the project, the temporary overland access routes will be allowed to revegetate naturally. A total of approximately ~~1.27~~ 1.30 acres project-wide will be needed for use as overland access.

**Table 1: Typical Major Construction Equipment**

<b>Equipment</b>	<b>Use</b>
3/4-ton pickup trucks	Transport construction personnel
All-terrain vehicles	Transport construction personnel
5-ton line trucks	Haul materials and conductor reels
2-ton flatbed trucks	Haul materials
Flatbed boom trucks	Haul and unload materials
Small mobile cranes (less than 12 tons)	Load and unload materials
3-reel pullers	Pull conductor
Dual bullwheel tensioners	Pull conductor
Tensioners	Pull conductor
Wire reel trailers	Haul conductor
Condor boom trucks	Access towers more than 100 feet high
70-ton cranes	Set cage-top extensions in non-sensitive areas
Air compressors	Operate air tools
Portable generators	Operate power tools
Hydraulic presses	Press together the conductor ends at dead-end structures
Aerial lift trucks	Access insulators in non-sensitive areas
Rubber-tire backhoes	Install crossing structures in sensitive areas
Tracked excavators	Install crossing structures in sensitive areas
Helicopters	Transport crews and materials

**Table 2: Access Summary Table**

Road/Route Type	Within the ECCC HCP/NCCP Area		Outside the ECCC HCP/NCCP Area	
	Approximate Length (miles)	Approximate Area (acres)	Approximate Length (miles)	Approximate Area (acres)
Paved (existing)	<del>3.68</del> 3.70	<del>5.23</del> 5.37	2.18	3.15
Gravel/Dirt (existing)	<del>2.86</del> 2.98	<del>4.04</del> 4.31	3.15	4.44
Overland (proposed temporary)	<del>0.29</del> 0.31	<del>0.42</del> 0.45	0.59	0.85
<b>Total</b>	<del>6.83</del> <b>6.98</b>	<del>9.69</del> <b>10.13</b>	<b>5.93</b>	<b>8.44</b>

Approximately ~~0.42~~ 0.45 acre of overland access routes (approximately 0.3 mile) within the ECCC HCP/NCCP Area will be used for the project. The preliminary locations of these overland routes are depicted in Figure 2: Detailed Project Map of Attachment B: Figures. These overland access routes may be adjusted due to final engineering, ground conditions at the time of construction, and other factors.

### Substation Access

Contra Costa Power Plant Substation, Rossmoor Substation, and Moraga Substation will be accessed on existing paved driveways. No improvements will be made to these paved roads.

### 1.4.2 Construction Areas

Construction of the project will require the use of equipment by crews at multiple defined, ground-based construction areas. These construction areas include tower work areas, pull sites, landing zones, crane work areas, crossing structures and associated work areas, and project-specific access roads.

### Work Areas

Approximately ~~29~~ 30 work areas will be established for construction activities, including tower work and equipment/materials staging, project-wide. In some instances, cage extensions will be assembled at the base of the tower, within a portion of the work area. The footprint of the tower may also be used to store/stage materials and equipment. ~~Alternative work areas near Contra Costa Substation have been identified to help provide flexibility of construction relative to~~

~~known burrowing owl occurrences near the Contra Costa Substation.~~<sup>8</sup> Vegetation removal, mowing, and grading will be necessary at some of the work areas for fire prevention, vehicle movement, and to create a safe and level surface. In some locations, geotechnical fabric and gravel might be temporarily applied within the work area.

As depicted in Figure 2: Detailed Project Map in Attachment B: Maps, of the estimated ~~29~~ 30 work areas, ~~16~~ 17 will be located within the ECCC HCP/NCCP Area. The ~~16~~ 17 work areas within the ECCC HCP/NCCP Area will total approximately ~~10.79~~ 10.94 acres in size. As depicted in Figure 2: Detailed Project Map of Attachment B: Figures, the work areas will typically be accessed via existing access roads or overland access routes. PG&E may also use its existing facility near Contra Costa Power Plant Substation to stage materials and assemble the steel cage extensions. This previously disturbed area is approximately 4.6 acres in size.

### Crane Work Areas

As depicted in Figure 2: Detailed Project Map in Attachment B: Maps, approximately 20 crane work areas have been identified for use during tower work.<sup>9</sup> These crane work areas will be limited to existing paved roads and will be up to approximately 0.14 acre in size (approximately 200 feet along the length of the road). No vegetation removal, mowing, or grading will be necessary at these locations as they will be limited to existing paved roads, road shoulders, and/or sidewalks.

Of the 20 crane work areas, 10 will be within the ECCC HCP/NCCP Area. These 10 crane work areas total approximately 1.40 acres in size.

### Helicopter Landing Zones

Helicopters will be used during construction to assist with tower modifications and the reconductoring process. Approximately ~~10~~ nine temporary landing zones have been identified for helicopters to stage, load and unload materials, and refuel. Alternative landing zones at Contra Costa Substation have been identified to help provide flexibility of construction relative to known burrowing owl occurrences near the Contra Costa Substation.<sup>10</sup> Site preparation for the landing zones will be limited to mowing and/or the application of geotechnical fabric and gravel, with no grading or other improvements anticipated.

Of the ~~10~~ nine landing zones, ~~four~~ three are within the ECCC HCP/NCCP Area. Within the ECCC HCP/NCCP Area, two landing zones are located within grassland vegetation, ~~one is located within ruderal vegetation~~, and one is located within an urban area. These ~~four~~ three landing zones total approximately ~~2.69~~ 2.37 acres in size.

Approximately 26 towers have been preliminarily identified as towers where modifications will be performed by helicopter, nine of which would be within the ECCC HCP/NCCP Area.

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~~<sup>8</sup> If Work Area/Pull Site 11A cannot be used due to environmental constraints, Work Area/Pull Site 11B will be established and used during construction.~~

<sup>9</sup> All crane work area locations are preliminary and may need to be adjusted somewhat due to conditions in the field at the time of construction.

<sup>10</sup> If Landing Zone 11A cannot be used due to environmental constraints, Landing Zone 11B will be established and used during construction.

Additional helicopter use might be required, but that will not be determined until the completion of final engineering. Helicopters, similar to the Huey 204 or Super 206, will be used for the tower modifications, and for bringing in all necessary tools and equipment where the use of a crane is not possible. Typically, flight paths will be limited to the existing transmission line ROW.

### **Pull Sites**

Pull sites are construction areas used for removal of existing conductors and the placement of new conductors along the transmission line. A list of construction equipment associated with conductor removal and replacement at pull sites is provided in Table 1: Typical Major Construction Equipment. Pull sites must be located in line with the conductors and are typically located within relatively flat areas. Approximately ~~16~~ 14 pull sites have been preliminarily identified. The pull sites are typically rectangular in shape and will occupy between 0.2 acre and ~~1.6~~ 1.1 acres; however, the average pull site will be approximately ~~0.7~~ 0.6 acre.

Of the ~~16~~ 14 pull sites project-wide, ~~nine~~ eight will be within the ECCC HCP/NCCP Area, as depicted on Figure 2: Detailed Project Map of Attachment B: Figures. These ~~nine~~ eight pull sites total approximately ~~3.96~~ 3.51 acres in size.

### **Crossing Structure Work Areas**

During construction, approximately ~~190~~ 194 crossing structures project-wide will be installed to protect utility crossings, roads, railroads, or pedestrian areas in the event of an unanticipated conductor break or loss of conductor tension. Crossing structure work areas will be established to accommodate the installation of the crossing structures. In most instances, the use of these work areas will be short in duration, lasting between 1 and 2 days, and equipment will be staged on existing roads or road shoulders. Ground disturbance within each work area will be limited to a small excavation to install the wooden pole, equipment staging, and parking. No grading or vegetation removal is anticipated. Crossing structure work areas will typically be approximately 0.01 acre each, encompassing a total area of approximately 2.0 acres project-wide.

Of the approximately ~~190~~ 194 crossing structures, ~~102~~ 106 will be within the ECCC HCP/NCCP and 88 will be outside the ECCC HCP/NCCP. The locations of the crossing structures are depicted in Figure 2: Detailed Project Map of Attachment B: Figures. Crossing Structures 1 through 101 will be located within the ECCC HCP/NCCP Area and their associated work areas total approximately 1.03 acres in size.

### **1.4.3 Tower Modifications**

Cage extensions, foundation reinforcement, additional reinforcement, and switch installation are four types of tower modifications that will be installed prior to the new conductors. A detailed discussion of these modifications is provided in the subsections that follow.

#### **Cage Extensions**

To accommodate the new conductors, cage extensions will be installed at approximately 53 towers project-wide. Raising the towers will involve adding a cage extensions to the top, middle, or base of the existing towers to increase the height by approximately 16.5 feet. Work will begin

by preparing the towers to accept the extension. The towers will be accessed on foot or by using a crane, pickup truck, or helicopter to install the necessary braces and additional plates.

The cage extensions will typically be assembled at a work area or landing zone and then delivered to the appropriate tower. In some instances, cage extensions will be assembled at the base of the tower, within a portion of the work area. The footprint of the tower may also be used for the staging/storage of equipment and materials. A helicopter, typically a Huey 204 or Super 206, will be used to facilitate tower modifications, as well as to bring in all necessary tools and equipment. Cranes will likely be used to install cage extensions for towers located in urban areas, although topography may preclude use of a crane in some cases. If a crane is used, existing public roads and/or designated project-specific access roads/routes will be used to deliver the materials.

After the cage extension is attached to the tower, crew members on the tower will remove the existing bottom set of crossarms from the tower, and the existing conductor will be reattached to the tower. If necessary, the old crossarms will be removed from the project area by helicopter or crane and flatbed truck, and disposed of or recycled in accordance with applicable laws.

Of the 53 towers that will receive cage-top extensions, 23 will be within the ECCC HCP/NCCP Area.

### **Foundation Reinforcement**

Approximately eight towers will receive foundation reinforcements during construction. Foundation reinforcements will typically involve adding additional steel plates/members to the existing towers legs. These additional plates/members will then be connected to screw anchors driven directly into the ground near the existing tower foundations to a depth of up to 50 feet deep. The total ground disturbance associated with the screw anchors will be negligible, approximately 18.8 square feet or less, along the entire 27-mile line. None of the tower foundation reinforcements will be within designated critical habitat and majority of the foundation reinforcements will be within developed, suburban areas. Crews will access the towers requiring foundation reinforcement using existing access roads.

Of the eight towers that will receive foundation reinforcements, seven will be within the ECCC HCP/NCCP Area. Within the ECCC HCP/NCCP Area, the screw anchors would occupy approximately 11 square feet or less.

### **Additional Reinforcement**

Approximately 37 towers will receive additional reinforcements (typically consisting of steel plates/members and associated hardware) during construction. Similar to the procedure for cage extensions, crews will access the towers by helicopter or from the ground. Steel members will be added/replaced one at a time to strengthen the existing tower.

Of the 37 towers that will receive additional reinforcement, 23 will be within the ECCC HCP/NCCP Area.

## Switch Installation

Two towers will receive new switches during construction to allow for operational flexibility during and after construction. In addition, the existing switches at Tower 102 will be replaced with new switches. Switch installation will typically involve installing a new cage-top and/or replacing the existing crossarms at the affected towers. Similar to cage extensions, the switches and associated hardware will typically be assembled at a work area or landing zone, then delivered to the base of the tower. The switches and associated hardware may also be assembled at the base of the tower. After assembly, a crane or helicopter will be used to install the switches and remove any existing hardware, as appropriate.

The newly installed switches will be operated manually by a technician standing on a new permanent platform that will be mounted on four approximately 6-inch-diameter footings. The platform will be completed by attaching perforated steel decking to the footings. The total permanent ground disturbance associated with the platform footings will be negligible, 1.57 square feet project-wide. The existing switch platform at Tower 102 would continue to be used to operate the replacement switches.

Of the three towers that will receive new or replacement switches, none are located within the ECCC HCP/NCCP Area.

### 1.4.4 Reconductoring

The following subsections describe the construction methods utilized for reconductoring. PG&E will coordinate with the CAISO to obtain all necessary clearances prior to beginning reconductoring work.<sup>11</sup> Obtaining clearances will ensure that the existing line could be taken out of service and that power is redistributed to service centers and customers, so that work could safely proceed on the line.

#### Traveler Installation and Unclipping

Conductor replacement will begin with the installation of travelers on the bottom of each insulator using helicopters or aerial lift trucks (bucket trucks). The travelers allow the conductor to be pulled through each structure easily, thus facilitating the removal of the existing conductor or the pulling of the new conductor to its final tension.

During the conductor removal or installation process, the conductor's forces—generated by its weight and tension, and located at each end of the pull sections—will be transferred to trucks, tensioners, and pullers. The existing conductor will be placed in a hoist and attached at one end to the steel tower to support the down-strain load, removing the load on the existing insulator conductors. The existing insulators will be removed, and new insulators will be installed with conductor travelers located on the ends. Once the travelers are in place, the hoist will lower the existing conductor onto the travelers. Next, the existing conductor will be unclipped from the existing insulators and placed on the travelers to be pulled out and removed from the structures within a pull section.

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<sup>11</sup> PG&E will coordinate with the CAISO prior to taking the lines out of service to ensure that the local transmission system load will not exceed the capabilities of the system without the CC-Moraga Line being energized.

The crew—as well as the travelers, insulators, and the tools required to install them—will be brought in by helicopter to most tower sites. If access by ground is necessary, crews will approach the towers on foot, by all-terrain vehicles, or by pickup trucks.

### **Pulling and Tensioning**

Once all of the travelers had been installed in a given pull section of the transmission line, a cable from the puller truck will be attached to the existing conductor at one end of the pull section, and the new conductor will be attached to the existing conductor on the opposite end. As the puller truck removes the existing conductor, the new conductor will be pulled into place. The conductor will be pulled through each structure under a controlled tension to keep it elevated and away from obstacles, thereby preventing damage to the conductor and protecting the public.

Some portions of the existing conductor have been spliced, which means that the conductor was cut and reconnected where the conductor showed prior signs of wear and tear or vulnerability to breakage. Where the conductor has been spliced, the conductor has an irregular size. In order to pull spliced portions of conductor, crews will either (1) manually cut and sleeve the spliced conductor using a bucket truck, crane, or helicopter prior to pulling; or (2) utilize pulleys rather than travelers in the pulling process to accommodate the irregularly sized conductor. As much as feasible, the method with the least environmental implications will be applied on a case-by-case basis. In open space areas, either a helicopter or pulleys will be utilized to avoid ground-level disturbance.

Once the new conductor is pulled into place and the sags between structures are adjusted to a pre-calculated level, it will be removed from the travelers and clipped onto the end of each insulator. The travelers will then be removed, and vibration dampers and other accessories will be installed.

At dead-end structures (conductor end points), crews will use a boom truck to support the down-strain load and enable the removal of the travelers, as well as to provide the crew access to the structures to attach the dead-end hardware. As an alternative, work might be conducted by helicopter using hoists and grips to support the down-strain load.

## **1.5 CONSTRUCTION SCHEDULE**

PG&E anticipates that construction of the project will take approximately 12 months within an approximately 18-month window. Site development and preparation for all project components will begin tentatively between the fourth quarter of 2014 and the first quarter of 2015, after which construction will continue with the modification of towers and then reconductoring. The line is expected to be energized in mid-2016, or as soon as possible after construction is completed.

~~Construction activities~~ Tower modification activities within the ECCC HCP/NCCP Inventory Area (including the City of Antioch and unincorporated Contra Costa County) will typically occur ~~6 days a week, as~~ consistent with local ordinances, 4 days a week, between Monday and

Thursday. Reconductoring work will generally follow local ordinances,<sup>12</sup> but may occur for 11 consecutive days followed by 3 days of inactivity. Workdays will generally be 10 hours long, with construction typically occurring between 7:00 a.m. and 7:00 p.m. Construction might be required outside of these hours to minimize impacts on schedules, for safety reasons, and as required by other property owners or agencies, such as the CAISO, which might dictate when outages of the electric system could occur. If construction during hours outside of those allowed by local ordinances is necessary and PG&E has advance notice of the need, PG&E will follow established protocols by providing advance notice to all property owners within 300 feet of construction activities. If PG&E must extend construction hours due to a construction safety or emergency situation, PG&E will complete the work and terminate activities as quickly as is safely possible.

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<sup>12</sup> Daily construction is allowed under the City of Antioch Noise Ordinance. Contra Costa County does not restrict construction noise.

**ATTACHMENT B: FIGURES**

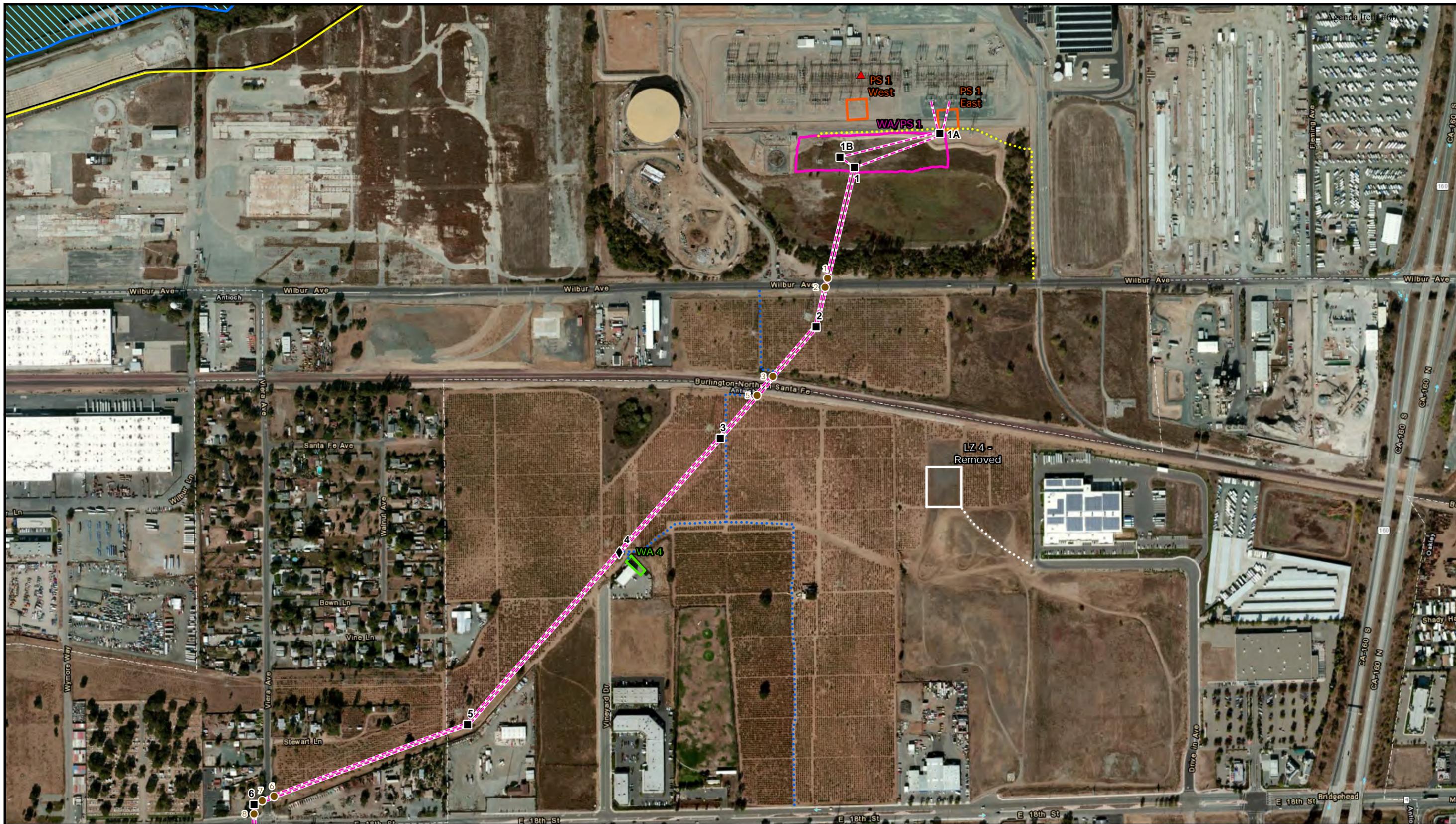


Figure 2: Detailed Project Map 1 of 10

Contra Costa-Moraga 230 kV Reconductoring Project

- |                                     |                               |                             |                                       |
|-------------------------------------|-------------------------------|-----------------------------|---------------------------------------|
| --- Contra Costa-Moraga 230 kV Line | □ Landing Zone (LZ)           | ● Paved Access Road         | ■ ECCC HCP/NCCP Area                  |
| ▲ Existing Substation               | □ Pull Site (PS)              | ● Gravel Access Road        | ■ Observed Water Feature              |
| ■ Existing Tower                    | □ Work Area (WA)              | ● Dirt Access Road          | ■ Drainage                            |
| ◆ Modified Tower                    | □ Crane Work Area (CWA)       | ● Overland Access Route     | ■ National Wetlands Inventory Feature |
| ● Crossing Structure                | □ Work Area/Pull Site (WA/PS) | ● Removed Access Road/Route |                                       |
|                                     | □ Removed Construction Area   | ● Added Access Road/Route   |                                       |

Notes:  
 • A description of each numbered wetland or water feature is provided in Attachment D: Wetland and Water Features in the Vicinity of Construction Areas Inside the ECCC HCP/NCCP Area.  
 • The center point of each Crane Work Area has been shown in its approximate location. Work within each Crane Work Area will be limited to the existing paved roadway, shoulder, and/or sidewalk. Each Crane Work Area will be approximately 200 feet long.

1:5,500 Feet



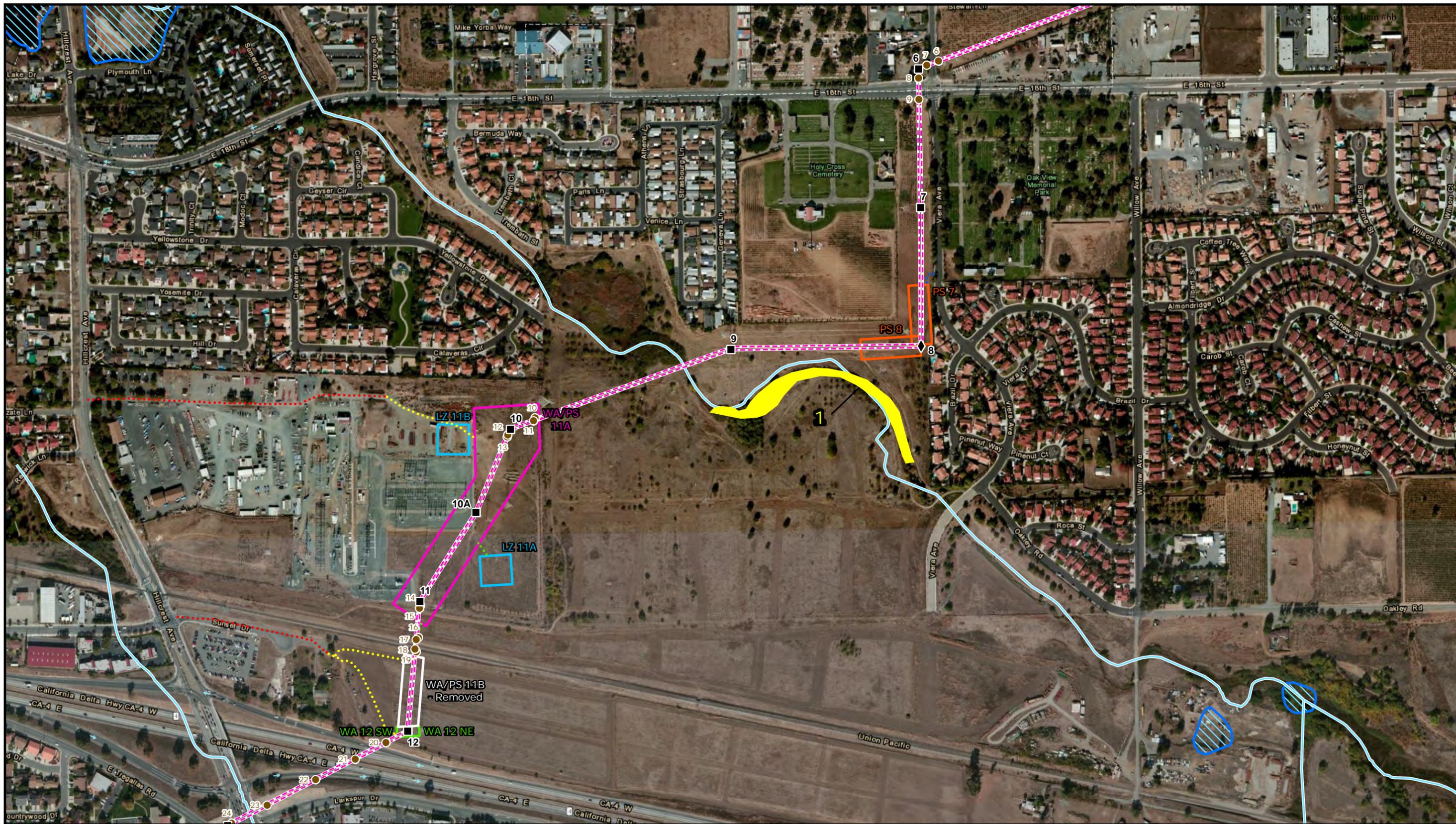
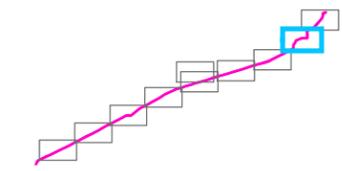


Figure 2: Detailed Project Map 2 of 10

Contra Costa-Moraga 230 kV Reconductoring Project

- |                                     |                               |                             |                                       |
|-------------------------------------|-------------------------------|-----------------------------|---------------------------------------|
| —●— Contra Costa-Moraga 230 kV Line | □ Landing Zone (LZ)           | ● Paved Access Road         | □ ECCC HCP/NCCP Area                  |
| ▲ Existing Substation               | □ Pull Site (PS)              | ● Gravel Access Road        | ■ Observed Water Feature              |
| ■ Existing Tower                    | □ Work Area (WA)              | ● Dirt Access Road          | — Drainage                            |
| ◆ Modified Tower                    | □ Crane Work Area (CWA)       | ● Overland Access Route     | □ National Wetlands Inventory Feature |
| ● Crossing Structure                | □ Work Area/Pull Site (WA/PS) | ● Removed Access Road/Route |                                       |
|                                     | □ Removed Construction Area   | ● Added Access Road/Route   |                                       |

Notes:  
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1:5,500

0 250 500 1,000 Feet

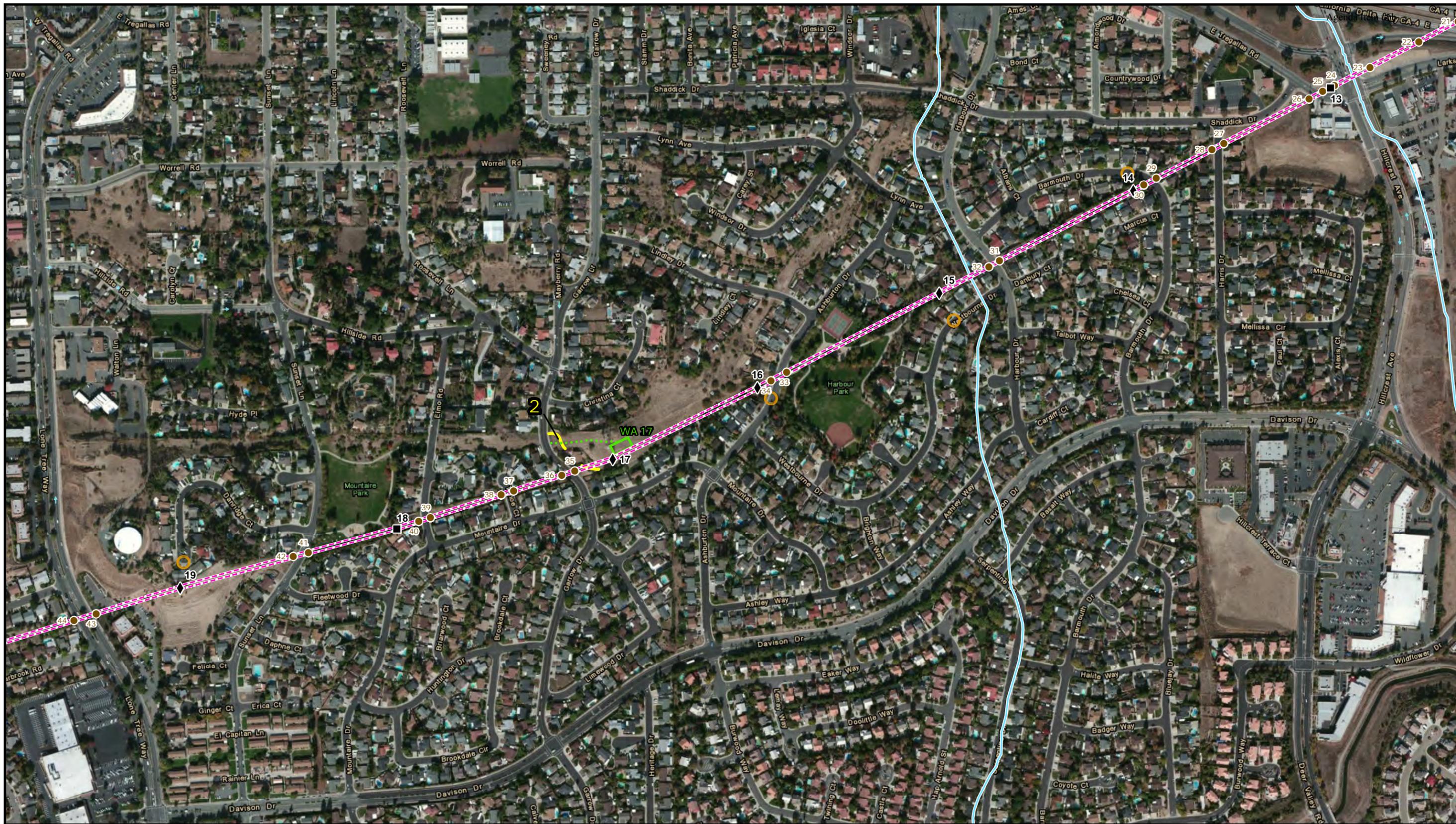
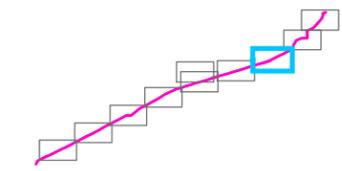


Figure 2: Detailed Project Map 3 of 10

Contra Costa-Moraga 230 kV Reconductoring Project

- |                                     |                               |                             |                                       |
|-------------------------------------|-------------------------------|-----------------------------|---------------------------------------|
| --- Contra Costa-Moraga 230 kV Line | □ Landing Zone (LZ)           | ● Paved Access Road         | ■ ECCC HCP/NCCP Area                  |
| ▲ Existing Substation               | □ Pull Site (PS)              | ● Gravel Access Road        | ■ Observed Water Feature              |
| ■ Existing Tower                    | □ Work Area (WA)              | ● Dirt Access Road          | □ Drainage                            |
| ◆ Modified Tower                    | □ Crane Work Area (CWA)       | ● Overland Access Route     | □ National Wetlands Inventory Feature |
| ● Crossing Structure                | □ Work Area/Pull Site (WA/PS) | ● Removed Access Road/Route |                                       |
|                                     | □ Removed Construction Area   | ● Added Access Road/Route   |                                       |

Notes:  
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1:5,500

0 250 500 1,000 Feet

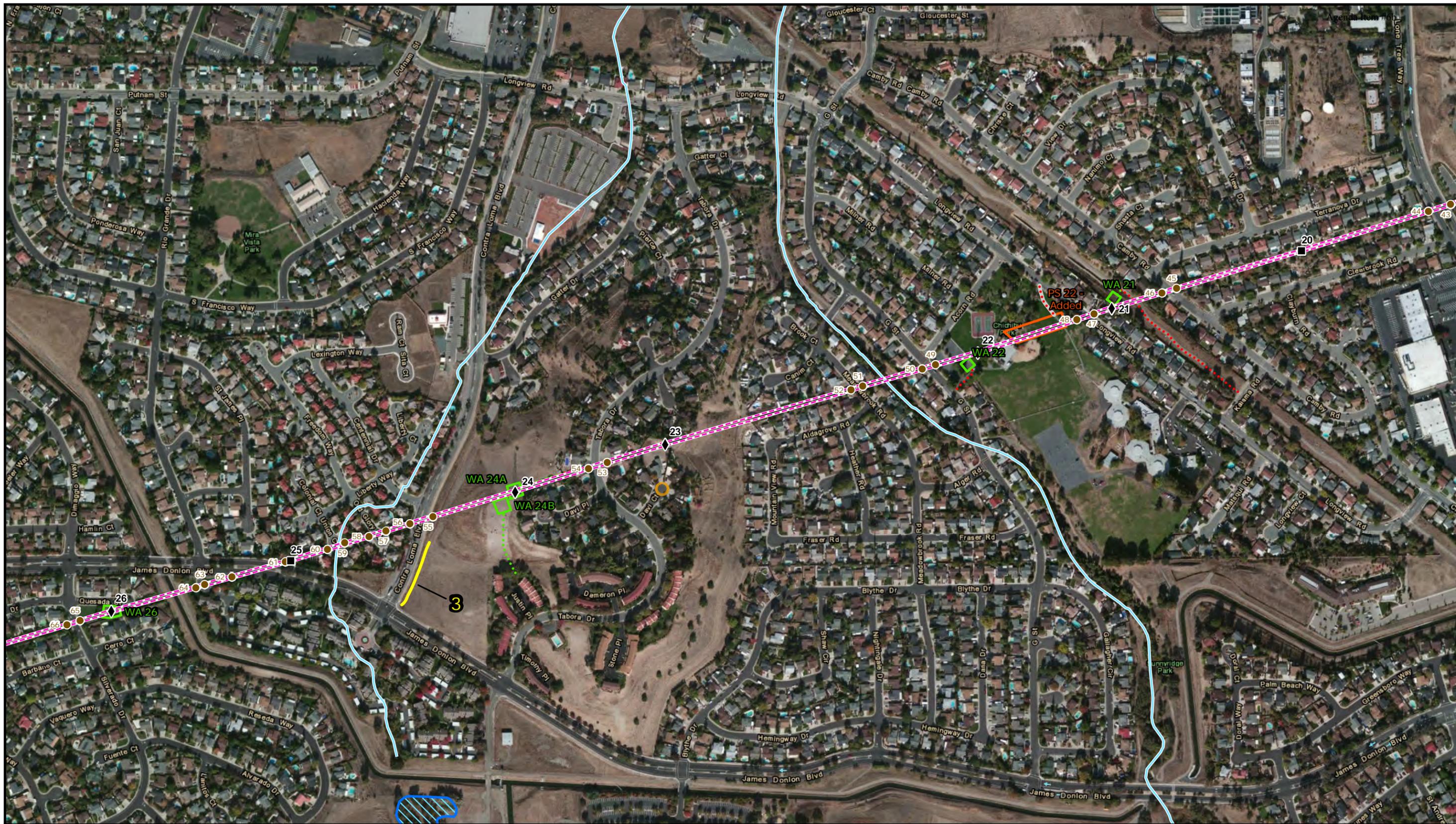


Figure 2: Detailed Project Map 4 of 10

Contra Costa-Moraga 230 kV Reconductoring Project

- |                                     |                               |                             |                                       |
|-------------------------------------|-------------------------------|-----------------------------|---------------------------------------|
| --- Contra Costa-Moraga 230 kV Line | □ Landing Zone (LZ)           | ● Paved Access Road         | ■ ECCC HCP/NCCP Area                  |
| ▲ Existing Substation               | □ Pull Site (PS)              | ● Gravel Access Road        | ■ Observed Water Feature              |
| ■ Existing Tower                    | □ Work Area (WA)              | ● Dirt Access Road          | □ Drainage                            |
| ◆ Modified Tower                    | □ Crane Work Area (CWA)       | ● Overland Access Route     | □ National Wetlands Inventory Feature |
| ● Crossing Structure                | □ Work Area/Pull Site (WA/PS) | ● Removed Access Road/Route |                                       |
|                                     | □ Removed Construction Area   | ● Added Access Road/Route   |                                       |

Notes:  
 • A description of each numbered wetland or water feature is provided in Attachment D: Wetland and Water Features in the Vicinity of Construction Areas Inside the ECCC HCP/NCCP Area.  
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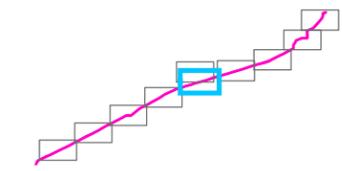
Figure 2: Detailed Project Map 5 of 10

Contra Costa-Moraga 230 kV Reconductoring Project

- |                                     |                               |                             |                                       |
|-------------------------------------|-------------------------------|-----------------------------|---------------------------------------|
| --- Contra Costa-Moraga 230 kV Line | □ Landing Zone (LZ)           | ● Paved Access Road         | ■ ECCC HCP/NCCP Area                  |
| ▲ Existing Substation               | □ Pull Site (PS)              | ● Gravel Access Road        | ■ Observed Water Feature              |
| ■ Existing Tower                    | □ Work Area (WA)              | ● Dirt Access Road          | ■ Drainage                            |
| ◆ Modified Tower                    | □ Crane Work Area (CWA)       | ● Overland Access Route     | ■ National Wetlands Inventory Feature |
| ● Crossing Structure                | □ Work Area/Pull Site (WA/PS) | ● Removed Access Road/Route |                                       |
|                                     | □ Removed Construction Area   | ● Added Access Road/Route   |                                       |

Notes:

- A description of each numbered wetland or water feature is provided in Attachment D: Wetland and Water Features in the Vicinity of Construction Areas Inside the ECCC HCP/NCCP Area.
- The center point of each Crane Work Area has been shown in its approximate location. Work within each Crane Work Area will be limited to the existing paved roadway, shoulder, and/or sidewalk. Each Crane Work Area will be approximately 200 feet long.







1:5,500

0 250 500 1,000 Feet

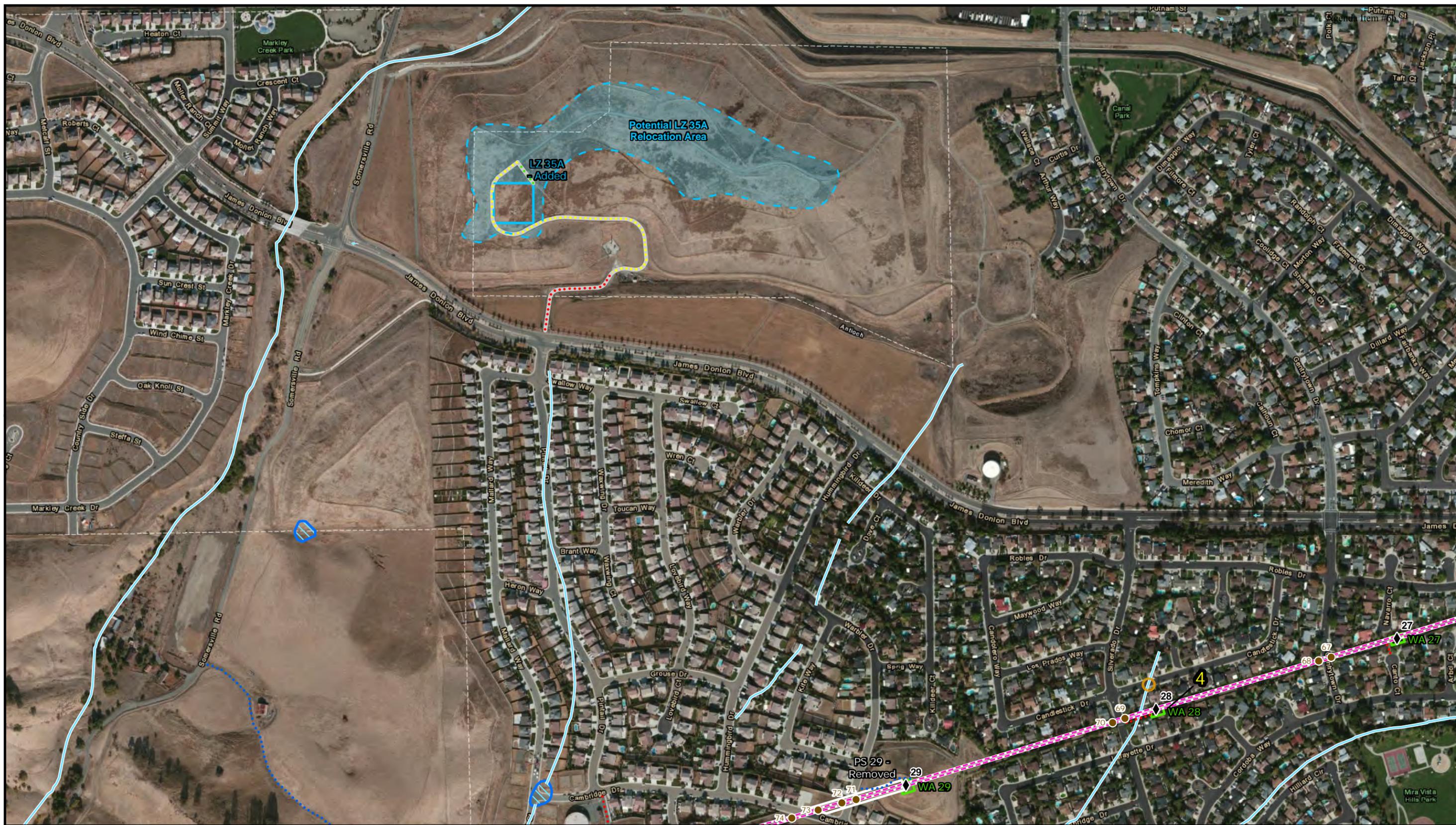


Figure 2: Detailed Project Map 6 of 10

Contra Costa-Moraga 230 kV Reconductoring Project

--- Contra Costa-Moraga 230 kV Line	□ Landing Zone (LZ)	● Paved Access Road	□ ECCC HCP/NCCP Area
▲ Existing Substation	□ Pull Site (PS)	● Gravel Access Road	□ Observed Water Feature
■ Existing Tower	□ Work Area (WA)	● Dirt Access Road	□ Drainage
◆ Modified Tower	□ Crane Work Area (CWA)	● Overland Access Route	□ National Wetlands Inventory Feature
● Crossing Structure	□ Work Area/Pull Site (WA/PS)	● Removed Access Road/Route	
	□ Removed Construction Area	● Added Access Road/Route	

Notes:  
 • A description of each numbered wetland or water feature is provided in Attachment D: Wetland and Water Features in the Vicinity of Construction Areas Inside the ECCC HCP/NCCP Area.  
 • The center point of each Crane Work Area has been shown in its approximate location. Work within each Crane Work Area will be limited to the existing paved roadway, shoulder, and/or sidewalk. Each Crane Work Area will be approximately 200 feet long.



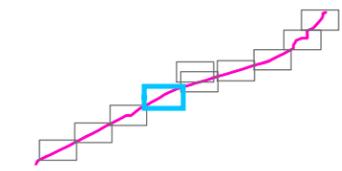
Figure 2: Detailed Project Map 7 of 10

Contra Costa-Moraga 230 kV Reconductoring Project

--- Contra Costa-Moraga 230 kV Line	□ Landing Zone (LZ)	● Paved Access Road	□ ECCC HCP/NCCP Area
▲ Existing Substation	□ Pull Site (PS)	● Gravel Access Road	■ Observed Water Feature
■ Existing Tower	□ Work Area (WA)	● Dirt Access Road	□ Drainage
◆ Modified Tower	□ Crane Work Area (CWA)	● Overland Access Route	□ National Wetlands Inventory Feature
● Crossing Structure	□ Work Area/Pull Site (WA/PS)	● Removed Access Road/Route	
	□ Removed Construction Area	● Added Access Road/Route	

Notes:

- A description of each numbered wetland or water feature is provided in Attachment D: Wetland and Water Features in the Vicinity of Construction Areas Inside the ECCC HCP/NCCP Area.
- The center point of each Crane Work Area has been shown in its approximate location. Work within each Crane Work Area will be limited to the existing paved roadway, shoulder, and/or sidewalk. Each Crane Work Area will be approximately 200 feet long.







1:5,500

0 250 500 1,000 Feet



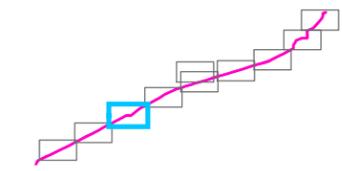
Figure 2: Detailed Project Map 8 of 10

Contra Costa-Moraga 230 kV Reconductoring Project

- |                                     |                               |                               |                                       |
|-------------------------------------|-------------------------------|-------------------------------|---------------------------------------|
| --- Contra Costa-Moraga 230 kV Line | □ Landing Zone (LZ)           | ... Paved Access Road         | ▭ ECCC HCP/NCCP Area                  |
| ▲ Existing Substation               | □ Pull Site (PS)              | ... Gravel Access Road        | ▭ Observed Water Feature              |
| ■ Existing Tower                    | □ Work Area (WA)              | ... Dirt Access Road          | ▭ Drainage                            |
| ◆ Modified Tower                    | □ Crane Work Area (CWA)       | ... Overland Access Route     | ▭ National Wetlands Inventory Feature |
| ● Crossing Structure                | □ Work Area/Pull Site (WA/PS) | ... Removed Access Road/Route |                                       |
|                                     | □ Removed Construction Area   | ... Added Access Road/Route   |                                       |

Notes:

- A description of each numbered wetland or water feature is provided in Attachment D: Wetland and Water Features in the Vicinity of Construction Areas Inside the ECCC HCP/NCCP Area.
- The center point of each Crane Work Area has been shown in its approximate location. Work within each Crane Work Area will be limited to the existing paved roadway, shoulder, and/or sidewalk. Each Crane Work Area will be approximately 200 feet long.







1:5,500

0 250 500 1,000 Feet

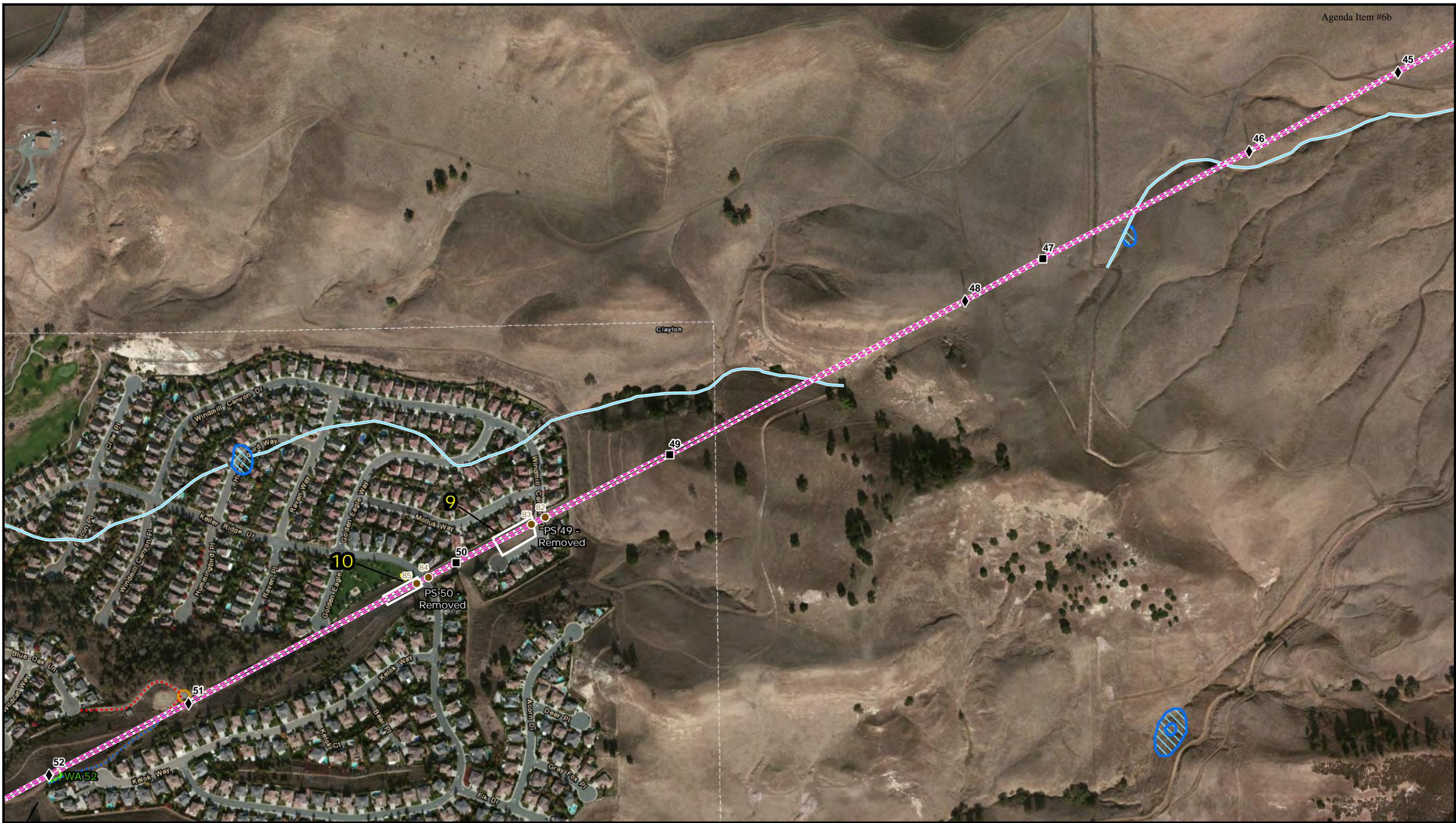


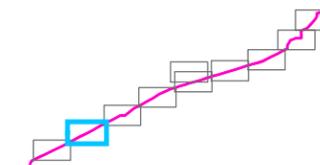
Figure 2: Detailed Project Map 9 of 10

Contra Costa-Moraga 230 kV Reconductoring Project

- |   |  |   |   |
|---|--|---|---|
| <ul style="list-style-type: none"> <li><span style="color: magenta;">- - -</span> Contra Costa-Moraga 230 kV Line</li> <li><span style="color: red;">▲</span> Existing Substation</li> <li><span style="color: black;">■</span> Existing Tower</li> <li><span style="color: black;">◆</span> Modified Tower</li> <li><span style="color: brown;">●</span> Crossing Structure</li> </ul> | <ul style="list-style-type: none"> <li><span style="border: 1px solid blue; width: 10px; height: 10px; display: inline-block;"></span> Landing Zone (LZ)</li> <li><span style="border: 1px solid orange; width: 10px; height: 10px; display: inline-block;"></span> Pull Site (PS)</li> <li><span style="border: 1px solid green; width: 10px; height: 10px; display: inline-block;"></span> Work Area (WA)</li> <li><span style="border: 1px solid yellow; width: 10px; height: 10px; display: inline-block;"></span> Crane Work Area (CWA)</li> <li><span style="border: 1px solid magenta; width: 10px; height: 10px; display: inline-block;"></span> Work Area/Pull Site (WA/PS)</li> <li><span style="border: 1px solid gray; width: 10px; height: 10px; display: inline-block;"></span> Removed Construction Area</li> </ul> | <ul style="list-style-type: none"> <li><span style="color: red;">●</span> Paved Access Road</li> <li><span style="color: yellow;">●</span> Gravel Access Road</li> <li><span style="color: blue;">●</span> Dirt Access Road</li> <li><span style="color: green;">●</span> Overland Access Route</li> <li><span style="color: gray;">●</span> Removed Access Road/Route</li> <li><span style="color: black;">●</span> Added Access Road/Route</li> </ul> | <ul style="list-style-type: none"> <li><span style="border: 1px solid yellow; width: 10px; height: 10px; display: inline-block;"></span> ECCC HCP/NCCP Area</li> <li><span style="background-color: yellow; width: 10px; height: 10px; display: inline-block;"></span> Observed Water Feature</li> <li><span style="border: 1px solid blue; width: 10px; height: 10px; display: inline-block;"></span> Drainage</li> <li><span style="border: 1px solid blue; width: 10px; height: 10px; display: inline-block;"></span> National Wetlands Inventory Feature</li> </ul> |
|---|--|---|---|

Notes:

- A description of each numbered wetland or water feature is provided in Attachment D: Wetland and Water Features in the Vicinity of Construction Areas Inside the ECCC HCP/NCCP Area.
- The center point of each Crane Work Area has been shown in its approximate location. Work within each Crane Work Area will be limited to the existing paved roadway, shoulder, and/or sidewalk. Each Crane Work Area will be approximately 200 feet long.



1:5,500

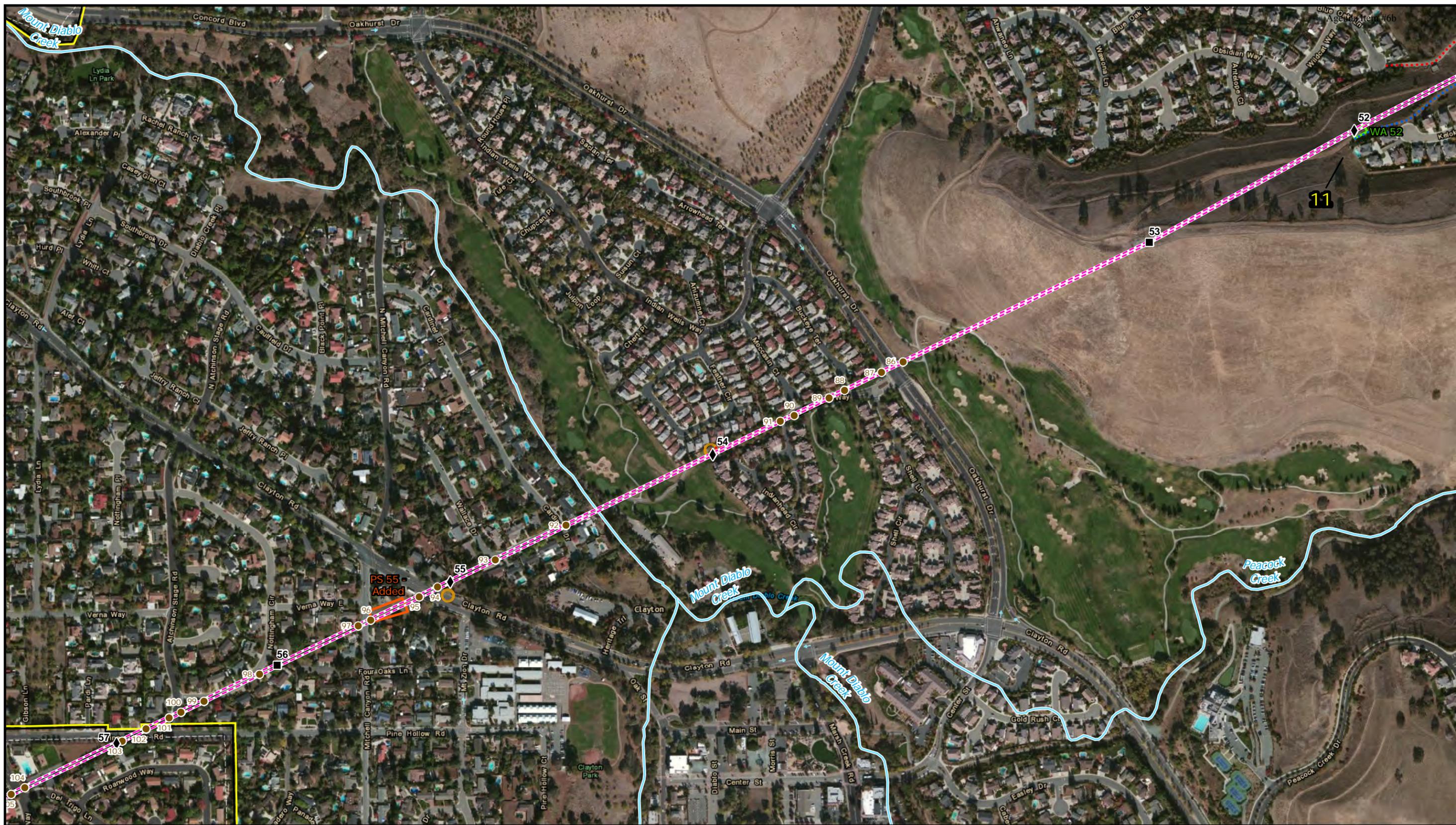


Figure 2: Detailed Project Map 10 of 10

Contra Costa-Moraga 230 kV Reconductoring Project

- |                                     |                               |                             |                                       |
|-------------------------------------|-------------------------------|-----------------------------|---------------------------------------|
| --- Contra Costa-Moraga 230 kV Line | □ Landing Zone (LZ)           | ● Paved Access Road         | □ ECCS HCP/NCCP Area                  |
| ▲ Existing Substation               | □ Pull Site (PS)              | ● Gravel Access Road        | □ Observed Water Feature              |
| ■ Existing Tower                    | □ Work Area (WA)              | ● Dirt Access Road          | □ Drainage                            |
| ◆ Modified Tower                    | □ Crane Work Area (CWA)       | ● Overland Access Route     | □ National Wetlands Inventory Feature |
| ● Crossing Structure                | □ Work Area/Pull Site (WA/PS) | ● Removed Access Road/Route |                                       |
|                                     | □ Removed Construction Area   | ● Added Access Road/Route   |                                       |

Notes:  
 • A description of each numbered wetland or water feature is provided in Attachment D: Wetland and Water Features in the Vicinity of Construction Areas Inside the ECCS HCP/NCCP Area.  
 • The center point of each Crane Work Area has been shown in its approximate location. Work within each Crane Work Area will be limited to the existing paved roadway, shoulder, and/or sidewalk. Each Crane Work Area will be approximately 200 feet long.

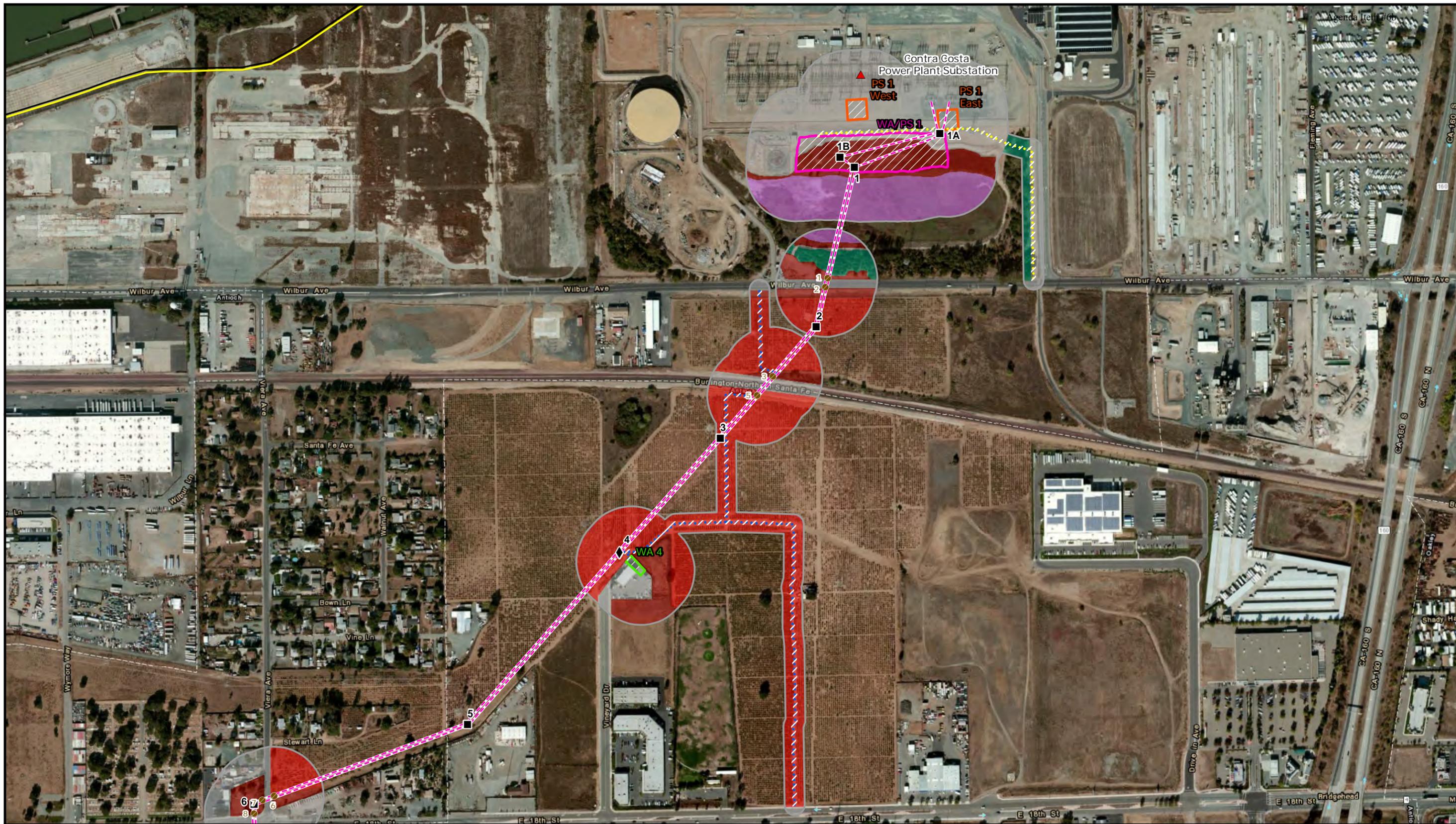


Figure 3a: Land Cover within ECCC HCP/NCCP Area Map 1 of 10

Contra Costa-Moraga 230 kV Reconductoring Project

- |                                     |                               |                         |                      |                       |            |
|-------------------------------------|-------------------------------|-------------------------|----------------------|-----------------------|------------|
| --- Contra Costa-Moraga 230 kV Line | □ Landing Zone (LZ)           | ● Paved Access Road     | ■ ECCC HCP/NCCP Area | □ Aquatic             | ■ Ruderal  |
| ▲ Existing Substation               | □ Pull Site (PS)              | ● Gravel Access Road    | □ Study Area         | □ Aqueduct            | ■ Turf     |
| ■ Existing Tower                    | □ Work Area (WA)              | ● Dirt Access Road      | □ Disturbance Area   | □ Grassland           | ■ Urban    |
| ◆ Modified Tower                    | □ Crane Work Area (CWA)       | ● Overland Access Route |                      | □ Non-native woodland | ■ Vineyard |
| ● Crossing Structure                | □ Work Area/Pull Site (WA/PS) |                         |                      | □ Riparian            | ■ Wetland  |

Notes:  
 • All existing paved and gravel access roads and Crane Work Areas have an appropriate land cover type of urban. All existing dirt access roads have an appropriate land cover type of ruderal. This distinction has not been displayed on this map for legibility.  
 • The center point of each Crane Work Area has been shown in its approximate location. Work within each Crane Work Area will be limited to the existing paved roadway, shoulder, and/or sidewalk. Each Crane Work Area will be approximately 200 feet long.

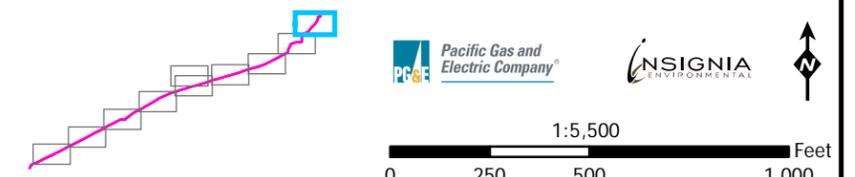




Figure 3a: Land Cover within ECCC HCP/NCCP Area Map 2 of 10

Contra Costa-Moraga 230 kV Reconductoring Project

- |                                     |                               |                             |                      |                       |            |
|-------------------------------------|-------------------------------|-----------------------------|----------------------|-----------------------|------------|
| --- Contra Costa-Moraga 230 kV Line | □ Landing Zone (LZ)           | ..... Paved Access Road     | ▭ ECCC HCP/NCCP Area | □ Aquatic             | ■ Ruderal  |
| ▲ Existing Substation               | □ Pull Site (PS)              | ..... Gravel Access Road    | □ Study Area         | □ Aqueduct            | ■ Turf     |
| ■ Existing Tower                    | □ Work Area (WA)              | ..... Dirt Access Road      | ▨ Disturbance Area   | ■ Grassland           | ■ Urban    |
| ◆ Modified Tower                    | □ Crane Work Area (CWA)       | ..... Overland Access Route |                      | ■ Non-native woodland | ■ Vineyard |
| ● Crossing Structure                | □ Work Area/Pull Site (WA/PS) |                             |                      | ■ Riparian            | ■ Wetland  |

Notes:  
 • All existing paved and gravel access roads and Crane Work Areas have an appropriate land cover type of urban. All existing dirt access roads have an appropriate land cover type of ruderal. This distinction has not been displayed on this map for legibility.  
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1:5,500  
 0 250 500 1,000 Feet



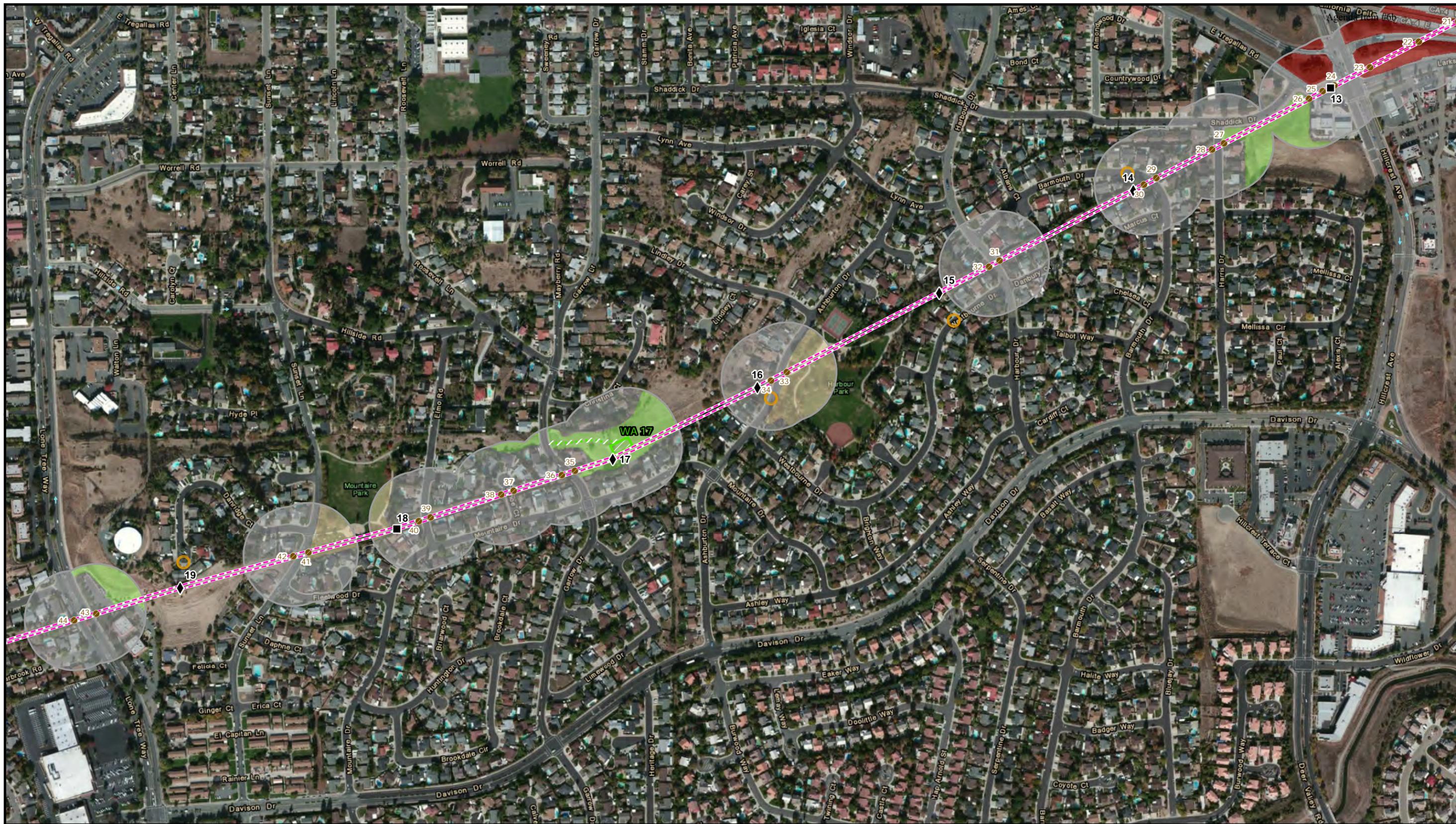


Figure 3a: Land Cover within ECCC HCP/NCCP Area Map 3 of 10

Contra Costa-Moraga 230 kV Reconductoring Project

- |                                     |                               |                         |                      |                       |            |
|-------------------------------------|-------------------------------|-------------------------|----------------------|-----------------------|------------|
| --- Contra Costa-Moraga 230 kV Line | □ Landing Zone (LZ)           | ● Paved Access Road     | □ ECCC HCP/NCCP Area | □ Aquatic             | ■ Ruderal  |
| ▲ Existing Substation               | □ Pull Site (PS)              | ● Gravel Access Road    | □ Study Area         | □ Aqueduct            | ■ Turf     |
| ■ Existing Tower                    | □ Work Area (WA)              | ● Dirt Access Road      | □ Disturbance Area   | ■ Grassland           | ■ Urban    |
| ◆ Modified Tower                    | □ Crane Work Area (CWA)       | ● Overland Access Route |                      | ■ Non-native woodland | ■ Vineyard |
| ● Crossing Structure                | □ Work Area/Pull Site (WA/PS) |                         |                      | ■ Riparian            | ■ Wetland  |

Notes:  
 • All existing paved and gravel access roads and Crane Work Areas have an appropriate land cover type of urban. All existing dirt access roads have an appropriate land cover type of ruderal. This distinction has not been displayed on this map for legibility.  
 • The center point of each Crane Work Area has been shown in its approximate location. Work within each Crane Work Area will be limited to the existing paved roadway, shoulder, and/or sidewalk. Each Crane Work Area will be approximately 200 feet long.





Figure 3a: Land Cover within ECCC HCP/NCCP Area Map 4 of 10

Contra Costa-Moraga 230 kV Reconductoring Project

- |                                     |                               |                         |                      |                       |            |
|-------------------------------------|-------------------------------|-------------------------|----------------------|-----------------------|------------|
| --- Contra Costa-Moraga 230 kV Line | □ Landing Zone (LZ)           | ● Paved Access Road     | □ ECCC HCP/NCCP Area | □ Aquatic             | ■ Ruderal  |
| ▲ Existing Substation               | □ Pull Site (PS)              | ● Gravel Access Road    | □ Study Area         | □ Aqueduct            | ■ Turf     |
| ■ Existing Tower                    | □ Work Area (WA)              | ● Dirt Access Road      | □ Disturbance Area   | □ Grassland           | ■ Urban    |
| ◆ Modified Tower                    | □ Crane Work Area (CWA)       | ● Overland Access Route |                      | □ Non-native woodland | ■ Vineyard |
| ● Crossing Structure                | □ Work Area/Pull Site (WA/PS) |                         |                      | □ Riparian            | ■ Wetland  |

Notes:  
 • All existing paved and gravel access roads and Crane Work Areas have an appropriate land cover type of urban. All existing dirt access roads have an appropriate land cover type of ruderal. This distinction has not been displayed on this map for legibility.  
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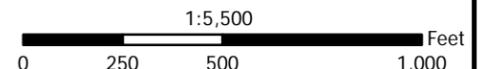
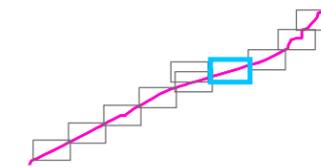


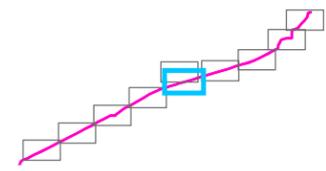


Figure 3a: Land Cover within ECCC HCP/NCCP Area Map 5 of 10

Contra Costa-Moraga 230 kV Reconductoring Project

- |                                     |                               |                         |                      |                       |            |
|-------------------------------------|-------------------------------|-------------------------|----------------------|-----------------------|------------|
| --- Contra Costa-Moraga 230 kV Line | □ Landing Zone (LZ)           | ● Paved Access Road     | □ ECCC HCP/NCCP Area | □ Aquatic             | ■ Ruderal  |
| ▲ Existing Substation               | □ Pull Site (PS)              | ● Gravel Access Road    | □ Study Area         | □ Aqueduct            | ■ Turf     |
| ■ Existing Tower                    | □ Work Area (WA)              | ● Dirt Access Road      | □ Disturbance Area   | □ Grassland           | ■ Urban    |
| ◆ Modified Tower                    | □ Crane Work Area (CWA)       | ● Overland Access Route |                      | □ Non-native woodland | ■ Vineyard |
| ● Crossing Structure                | □ Work Area/Pull Site (WA/PS) |                         |                      | □ Riparian            | ■ Wetland  |

Notes:  
 • All existing paved and gravel access roads and Crane Work Areas have an appropriate land cover type of urban. All existing dirt access roads have an appropriate land cover type of ruderal. This distinction has not been displayed on this map for legibility.  
 • The center point of each Crane Work Area has been shown in its approximate location. Work within each Crane Work Area will be limited to the existing paved roadway, shoulder, and/or sidewalk. Each Crane Work Area will be approximately 200 feet long.







1:5,500

0 250 500 1,000 Feet

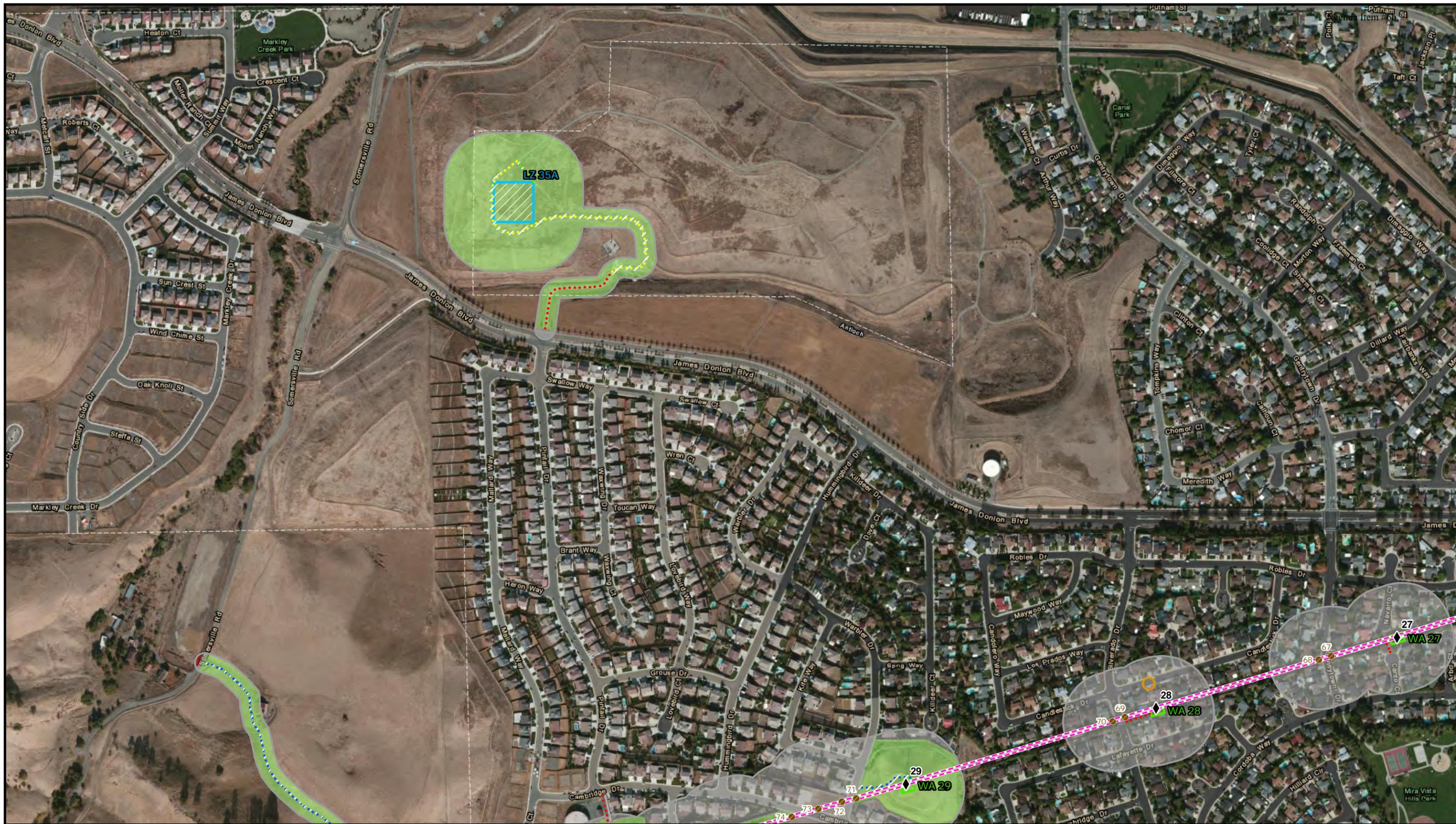


Figure 3a: Land Cover within ECCC HCP/NCCP Area Map 6 of 10

Contra Costa-Moraga 230 kV Reconductoring Project

- |                                     |                               |                         |                      |                       |            |
|-------------------------------------|-------------------------------|-------------------------|----------------------|-----------------------|------------|
| --- Contra Costa-Moraga 230 kV Line | □ Landing Zone (LZ)           | ● Paved Access Road     | □ ECCC HCP/NCCP Area | □ Aquatic             | ■ Ruderal  |
| ▲ Existing Substation               | □ Pull Site (PS)              | ● Gravel Access Road    | □ Study Area         | □ Aqueduct            | ■ Turf     |
| ■ Existing Tower                    | □ Work Area (WA)              | ● Dirt Access Road      | □ Disturbance Area   | □ Grassland           | ■ Urban    |
| ◆ Modified Tower                    | □ Crane Work Area (CWA)       | ● Overland Access Route |                      | □ Non-native woodland | ■ Vineyard |
| ● Crossing Structure                | □ Work Area/Pull Site (WA/PS) |                         |                      | □ Riparian            | ■ Wetland  |

Notes:  
 • All existing paved and gravel access roads and Crane Work Areas have an appropriate land cover type of urban. All existing dirt access roads have an appropriate land cover type of ruderal. This distinction has not been displayed on this map for legibility.  
 • The center point of each Crane Work Area has been shown in its approximate location. Work within each Crane Work Area will be limited to the existing paved roadway, shoulder, and/or sidewalk. Each Crane Work Area will be approximately 200 feet long.



Figure 3a: Land Cover within ECCC HCP/NCCP Area Map 7 of 10

Contra Costa-Moraga 230 kV Reconductoring Project

- |                                     |                               |                         |                      |                       |            |
|-------------------------------------|-------------------------------|-------------------------|----------------------|-----------------------|------------|
| --- Contra Costa-Moraga 230 kV Line | □ Landing Zone (LZ)           | ● Paved Access Road     | ■ ECCC HCP/NCCP Area | □ Aquatic             | ■ Ruderal  |
| ▲ Existing Substation               | □ Pull Site (PS)              | ● Gravel Access Road    | □ Study Area         | □ Aqueduct            | ■ Turf     |
| ■ Existing Tower                    | □ Work Area (WA)              | ● Dirt Access Road      | □ Disturbance Area   | □ Grassland           | ■ Urban    |
| ◆ Modified Tower                    | □ Crane Work Area (CWA)       | ● Overland Access Route |                      | □ Non-native woodland | ■ Vineyard |
| ● Crossing Structure                | □ Work Area/Pull Site (WA/PS) |                         |                      | □ Riparian            | ■ Wetland  |

Notes:  
 • All existing paved and gravel access roads and Crane Work Areas have an appropriate land cover type of urban. All existing dirt access roads have an appropriate land cover type of ruderal. This distinction has not been displayed on this map for legibility.  
 • The center point of each Crane Work Area has been shown in its approximate location. Work within each Crane Work Area will be limited to the existing paved roadway, shoulder, and/or sidewalk. Each Crane Work Area will be approximately 200 feet long.

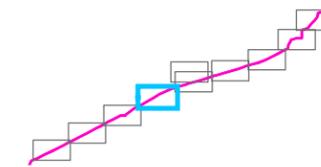


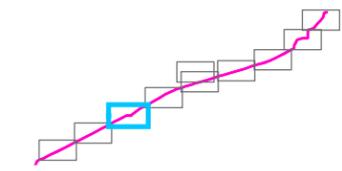


Figure 3a: Land Cover within ECCC HCP/NCCP Area Map 8 of 10

Contra Costa-Moraga 230 kV Reconductoring Project

- |                                     |                               |                         |                      |                       |            |
|-------------------------------------|-------------------------------|-------------------------|----------------------|-----------------------|------------|
| --- Contra Costa-Moraga 230 kV Line | □ Landing Zone (LZ)           | ● Paved Access Road     | ▭ ECCC HCP/NCCP Area | ■ Aquatic             | ■ Ruderal  |
| ▲ Existing Substation               | □ Pull Site (PS)              | ● Gravel Access Road    | □ Study Area         | ■ Aqueduct            | ■ Turf     |
| ■ Existing Tower                    | □ Work Area (WA)              | ● Dirt Access Road      | ▨ Disturbance Area   | ■ Grassland           | ■ Urban    |
| ◆ Modified Tower                    | □ Crane Work Area (CWA)       | ● Overland Access Route |                      | ■ Non-native woodland | ■ Vineyard |
| ● Crossing Structure                | □ Work Area/Pull Site (WA/PS) |                         |                      | ■ Riparian            | ■ Wetland  |

Notes:  
 • All existing paved and gravel access roads and Crane Work Areas have an appropriate land cover type of urban. All existing dirt access roads have an appropriate land cover type of ruderal. This distinction has not been displayed on this map for legibility.  
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1:5,500

0 250 500 1,000 Feet



Figure 3a: Land Cover within ECCC HCP/NCCP Area Map 9 of 10

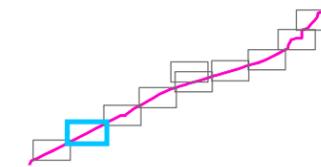
Contra Costa-Moraga 230 kV Reconductoring Project

- |                                     |                               |                         |                      |                       |            |
|-------------------------------------|-------------------------------|-------------------------|----------------------|-----------------------|------------|
| --- Contra Costa-Moraga 230 kV Line | □ Landing Zone (LZ)           | ● Paved Access Road     | □ ECCC HCP/NCCP Area | □ Aquatic             | ■ Ruderal  |
| ▲ Existing Substation               | □ Pull Site (PS)              | ● Gravel Access Road    | □ Study Area         | □ Aqueduct            | ■ Turf     |
| ■ Existing Tower                    | □ Work Area (WA)              | ● Dirt Access Road      | □ Disturbance Area   | □ Grassland           | ■ Urban    |
| ◆ Modified Tower                    | □ Crane Work Area (CWA)       | ● Overland Access Route |                      | □ Non-native woodland | ■ Vineyard |
| ● Crossing Structure                | □ Work Area/Pull Site (WA/PS) |                         |                      | □ Riparian            | ■ Wetland  |

Notes:

• All existing paved and gravel access roads and Crane Work Areas have an appropriate land cover type of urban. All existing dirt access roads have an appropriate land cover type of ruderal. This distinction has not been displayed on this map for legibility.

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1:5,500

0 250 500 1,000 Feet

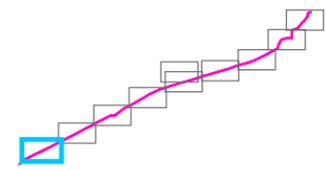


Figure 3a: Land Cover within ECCC HCP/NCCP Area Map 10 of 10

Contra Costa-Moraga 230 kV Reconductoring Project

- |                                     |                               |                             |                      |                       |            |
|-------------------------------------|-------------------------------|-----------------------------|----------------------|-----------------------|------------|
| --- Contra Costa-Moraga 230 kV Line | □ Landing Zone (LZ)           | ..... Paved Access Road     | □ ECCC HCP/NCCP Area | □ Aquatic             | ■ Ruderal  |
| ▲ Existing Substation               | □ Pull Site (PS)              | ..... Gravel Access Road    | □ Study Area         | □ Aqueduct            | ■ Turf     |
| ■ Existing Tower                    | □ Work Area (WA)              | ..... Dirt Access Road      | □ Disturbance Area   | □ Grassland           | ■ Urban    |
| ◆ Modified Tower                    | □ Crane Work Area (CWA)       | ..... Overland Access Route |                      | □ Non-native woodland | ■ Vineyard |
| ● Crossing Structure                | □ Work Area/Pull Site (WA/PS) |                             |                      | □ Riparian            | ■ Wetland  |

Notes:  
 • All existing paved and gravel access roads and Crane Work Areas have an appropriate land cover type of urban. All existing dirt access roads have an appropriate land cover type of ruderal. This distinction has not been displayed on this map for legibility.  
 • The center point of each Crane Work Area has been shown in its approximate location. Work within each Crane Work Area will be limited to the existing paved roadway, shoulder, and/or sidewalk. Each Crane Work Area will be approximately 200 feet long.








1:5,500  
 0 250 500 1,000 Feet

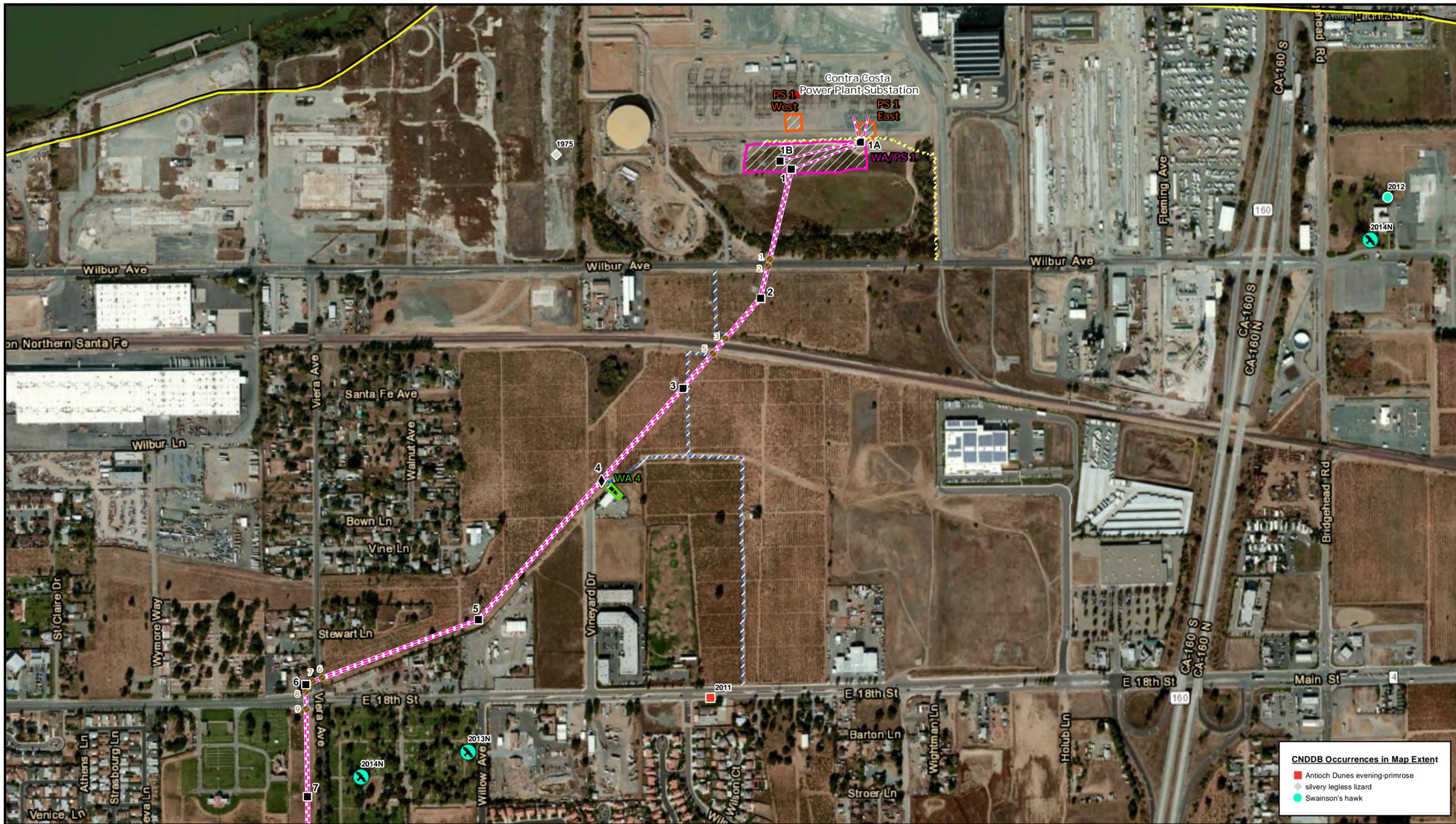
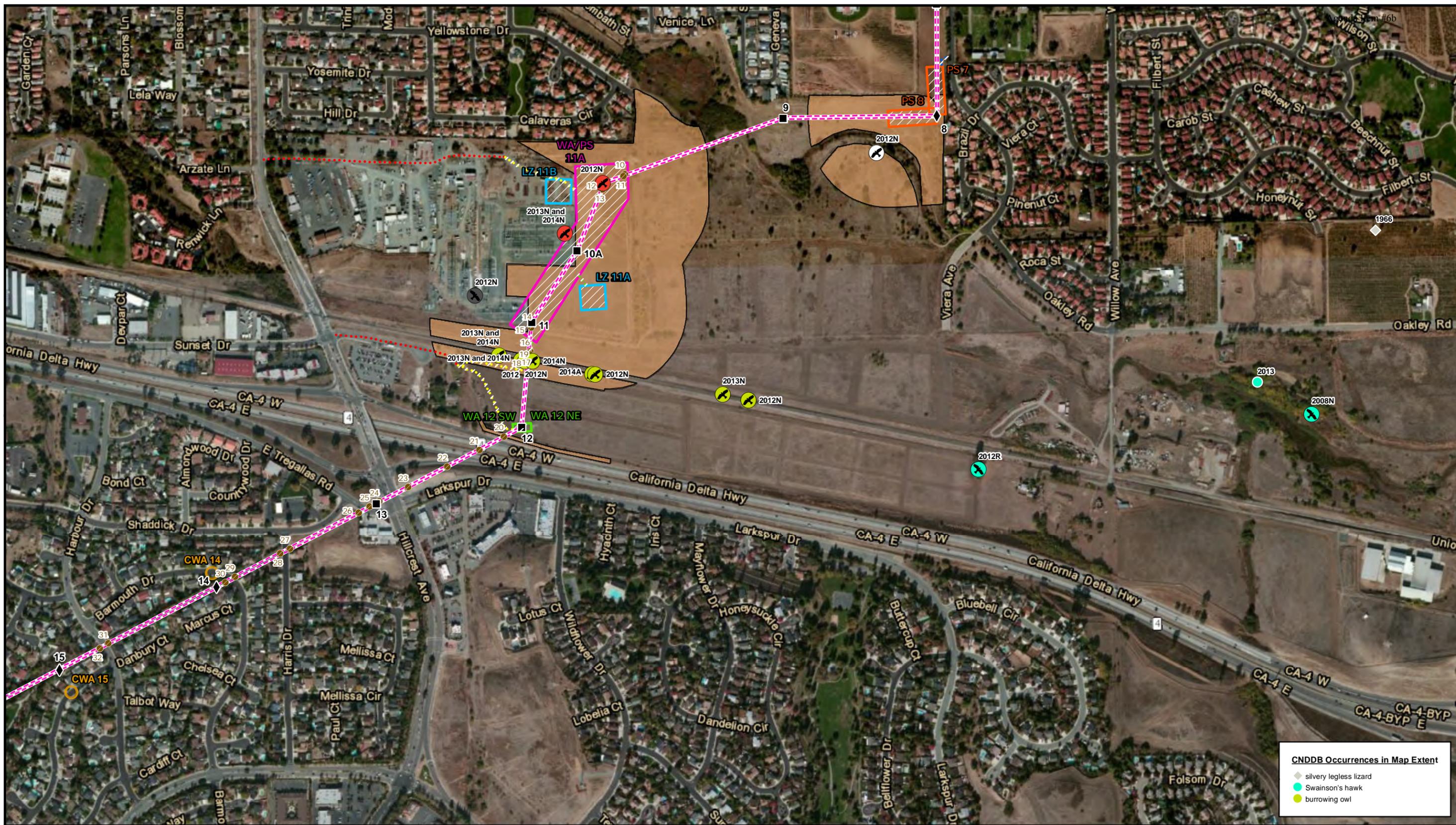


Figure 4: Biological Survey Results within ECCC HCP/NCCP Area Map 1 of 9

Contra Costa-Moraga 230 kV Reconductoring Project

<ul style="list-style-type: none"> <li><span style="color: magenta;">---</span> Contra Costa-Moraga 230 kV Line</li> <li><span style="color: red;">▲</span> Existing Substation</li> <li><span style="color: black;">■</span> Existing Tower</li> <li><span style="color: black;">◆</span> Modified Tower</li> <li><span style="color: brown;">●</span> Crossing Structure</li> </ul>	<ul style="list-style-type: none"> <li><span style="border: 1px solid blue; display: inline-block; width: 10px; height: 10px;"></span> Landing Zone (LZ)</li> <li><span style="border: 1px solid orange; display: inline-block; width: 10px; height: 10px;"></span> Pull Site (PS)</li> <li><span style="border: 1px solid green; display: inline-block; width: 10px; height: 10px;"></span> Work Area (WA)</li> <li><span style="border: 1px solid yellow; display: inline-block; width: 10px; height: 10px;"></span> Crane Work Area (CWA)</li> <li><span style="border: 1px solid magenta; display: inline-block; width: 10px; height: 10px;"></span> Work Area/Pull Site (WA/PS)</li> </ul>	<ul style="list-style-type: none"> <li><span style="color: red;">●</span> Paved Access Road</li> <li><span style="color: orange;">●</span> Gravel Access Road</li> <li><span style="color: blue;">●</span> Dirt Access Road</li> <li><span style="color: green;">●</span> Overland Access Route</li> </ul>	<ul style="list-style-type: none"> <li><span style="border: 1px solid yellow; display: inline-block; width: 10px; height: 10px;"></span> ECCC HCP/NCCP Area</li> <li><span style="border: 1px dashed grey; display: inline-block; width: 10px; height: 10px;"></span> Disturbance Area</li> <li><span style="background-color: #f0f0f0; border: 1px solid grey; display: inline-block; width: 10px; height: 10px;"></span> Potential Burrowing Owl Habitat</li> <li><span style="background-color: #e0e0e0; border: 1px solid grey; display: inline-block; width: 10px; height: 10px;"></span> Potential San Joaquin Kit Fox Habitat</li> <li><span style="background-color: #d0d0d0; border: 1px solid grey; display: inline-block; width: 10px; height: 10px;"></span> Potential Alameda Whipsnake Habitat</li> <li><span style="color: red;">◆</span> Project-Specific California Red-Legged Frog Observation</li> </ul>	<ul style="list-style-type: none"> <li><span style="color: yellow;">●</span> Burrowing Owl</li> <li><span style="color: black;">●</span> Common Raven</li> <li><span style="color: brown;">●</span> Great Horned Owl</li> <li><span style="color: yellow;">●</span> Golden Eagle</li> <li><span style="color: red;">●</span> Red-tailed Hawk</li> <li><span style="color: green;">●</span> Swainson's Hawk</li> <li><span style="color: black;">●</span> White-tailed Kite</li> </ul>	<p>Notes:</p> <ul style="list-style-type: none"> <li>• No Covered or No-Take plant species were observed within our Project Area during the 2010, 2011, and 2013 botanical surveys.</li> <li>• The center point of each Crane Work Area has been shown in its approximate location. Work within each Crane Work Area will be limited to the existing paved roadway, shoulder, and/or sidewalk. Each Crane Work Area will be approximately 200 feet long.</li> <li>• Avian survey results have been labeled with the year of the occurrence. Avian survey results have been labeled with the year of the observation. The following suffixes have been added to the observation year: N = Nest, A = Alternate Nest, P = Perching, R = Removed Nest, S = Sign.</li> </ul>
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**CNDDDB Occurrences in Map Extent**

- ◆ silver legless lizard
- Swainson's hawk
- burrowing owl

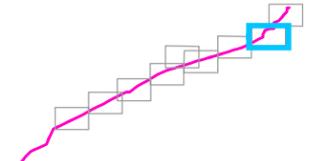
Figure 4: Biological Survey Results within ECCC HCP/NCCP Area Map 2 of 9

Contra Costa-Moraga 230 kV Reconductoring Project

- |                                     |                               |                         |   |                    |                     |
|-------------------------------------|-------------------------------|-------------------------|---|--------------------|---------------------|
| --- Contra Costa-Moraga 230 kV Line | □ Landing Zone (LZ)           | ● Paved Access Road     | ■ ECCC HCP/NCCP Area                                      | ● Burrowing Owl    | ● Red-tailed Hawk   |
| ▲ Existing Substation               | □ Pull Site (PS)              | ● Gravel Access Road    | --- Disturbance Area                                      | ● Common Raven     | ● Swainson's Hawk   |
| ■ Existing Tower                    | □ Work Area (WA)              | ● Dirt Access Road      | ■ Potential Burrowing Owl Habitat                         | ● Great Horned Owl | ● White-tailed Kite |
| ◆ Modified Tower                    | □ Crane Work Area (CWA)       | ● Overland Access Route | ■ Potential San Joaquin Kit Fox Habitat                   | ● Golden Eagle     |                     |
| ● Crossing Structure                | □ Work Area/Pull Site (WA/PS) |                         | ■ Potential Alameda Whipsnake Habitat                     |                    |                     |
|                                     |                               |                         | ◆ Project-Specific California Red-Legged Frog Observation |                    |                     |

**Notes:**

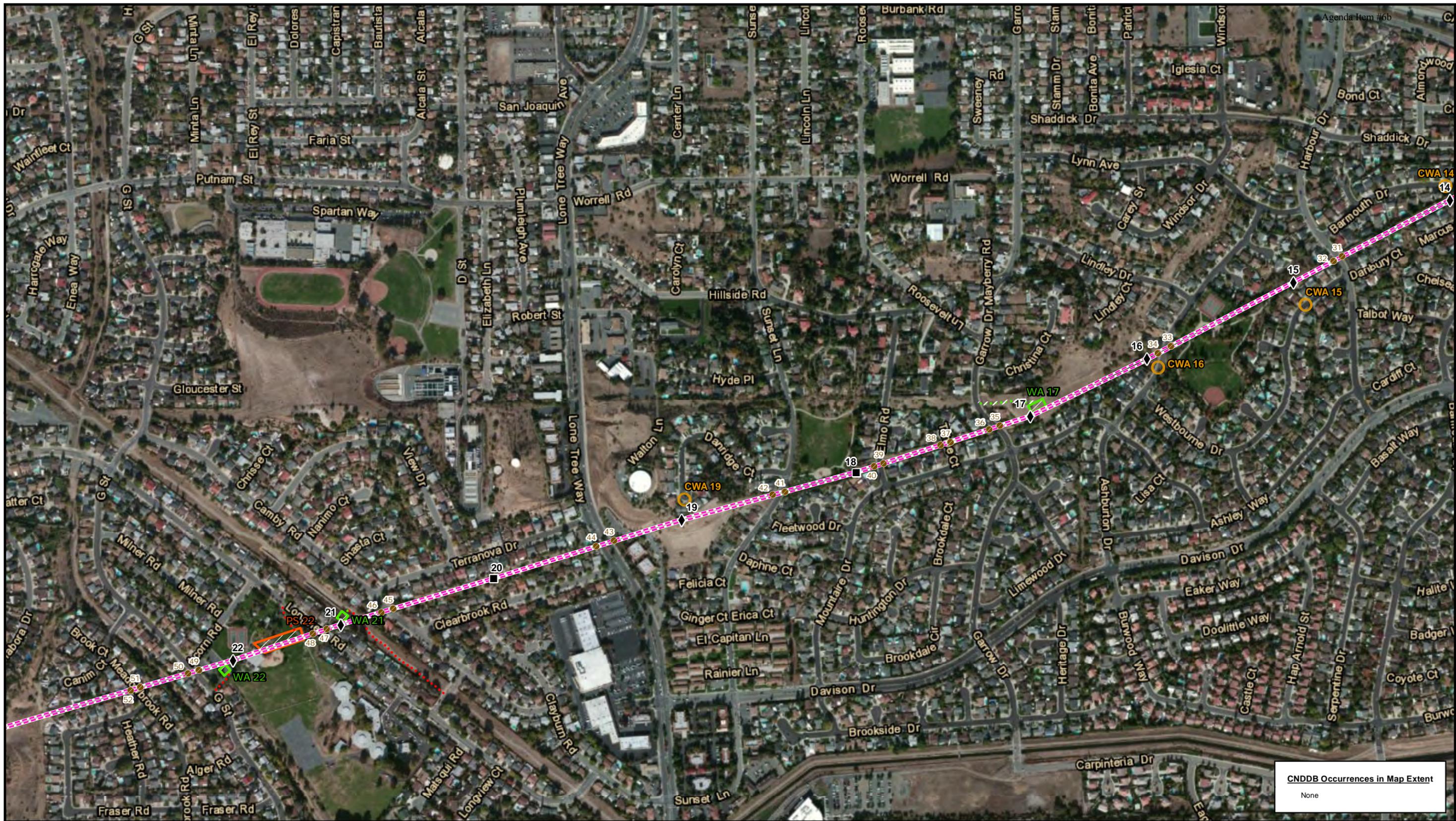
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1:6,800

0 250 500 1,000 Feet

Pacific Gas and Electric Company  
NSIGNIA ENVIRONMENTAL



**CNDDDB Occurrences in Map Extent**  
None

Figure 4: Biological Survey Results within ECCC HCP/NCCP Area Map 3 of 9

Contra Costa-Moraga 230 kV Reconductoring Project

<ul style="list-style-type: none"> <li><span style="color: magenta;">---</span> Contra Costa-Moraga 230 kV Line</li> <li><span style="color: red;">▲</span> Existing Substation</li> <li><span style="color: black;">■</span> Existing Tower</li> <li><span style="color: black;">◆</span> Modified Tower</li> <li><span style="color: brown;">●</span> Crossing Structure</li> </ul>	<ul style="list-style-type: none"> <li><span style="border: 1px solid blue; display: inline-block; width: 10px; height: 10px;"></span> Landing Zone (LZ)</li> <li><span style="border: 1px solid orange; display: inline-block; width: 10px; height: 10px;"></span> Pull Site (PS)</li> <li><span style="border: 1px solid green; display: inline-block; width: 10px; height: 10px;"></span> Work Area (WA)</li> <li><span style="border: 1px solid yellow; display: inline-block; width: 10px; height: 10px;"></span> Crane Work Area (CWA)</li> <li><span style="border: 1px solid magenta; display: inline-block; width: 10px; height: 10px;"></span> Work Area/Pull Site (WA/PS)</li> </ul>	<ul style="list-style-type: none"> <li><span style="color: red;">●</span> Paved Access Road</li> <li><span style="color: yellow;">●</span> Gravel Access Road</li> <li><span style="color: blue;">●</span> Dirt Access Road</li> <li><span style="color: green;">●</span> Overland Access Route</li> </ul>	<ul style="list-style-type: none"> <li><span style="border: 1px solid yellow; display: inline-block; width: 10px; height: 10px;"></span> ECCC HCP/NCCP Area</li> <li><span style="border: 1px solid grey; display: inline-block; width: 10px; height: 10px;"></span> Disturbance Area</li> <li><span style="border: 1px solid brown; display: inline-block; width: 10px; height: 10px;"></span> Potential Burrowing Owl Habitat</li> <li><span style="border: 1px solid green; display: inline-block; width: 10px; height: 10px;"></span> Potential San Joaquin Kit Fox Habitat</li> <li><span style="border: 1px solid purple; display: inline-block; width: 10px; height: 10px;"></span> Potential Alameda Whipsnake Habitat</li> <li><span style="color: red;">◆</span> Project-Specific California Red-Legged Frog Observation</li> </ul>	<ul style="list-style-type: none"> <li><span style="color: green;">●</span> Burrowing Owl</li> <li><span style="color: black;">●</span> Common Raven</li> <li><span style="color: brown;">●</span> Great Horned Owl</li> <li><span style="color: yellow;">●</span> Golden Eagle</li> </ul>	<ul style="list-style-type: none"> <li><span style="color: red;">●</span> Red-tailed Hawk</li> <li><span style="color: green;">●</span> Swainson's Hawk</li> <li><span style="color: black;">●</span> White-tailed Kite</li> </ul>	<p>Notes:</p> <ul style="list-style-type: none"> <li>• No Covered or No-Take plant species were observed within our Project Area during the 2010, 2011, and 2013 botanical surveys.</li> <li>• The center point of each Crane Work Area has been shown in its approximate location. Work within each Crane Work Area will be limited to the existing paved roadway, shoulder, and/or sidewalk. Each Crane Work Area will be approximately 200 feet long.</li> <li>• Avian survey results have been labeled with the year of the occurrence. Avian survey results have been labeled with the year of the observation. The following suffixes have been added to the observation year: N = Nest, A = Alternate Nest, P = Perching, R = Removed Nest, S = Sign.</li> </ul>
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1:6,800  
 0 250 500 1,000 Feet



Figure 4: Biological Survey Results within ECCC HCP/NCCP Area Map 4 of 9

Contra Costa-Moraga 230 kV Reconductoring Project

<ul style="list-style-type: none"> <li>--- Contra Costa-Moraga 230 kV Line</li> <li>▲ Existing Substation</li> <li>■ Existing Tower</li> <li>◆ Modified Tower</li> <li>● Crossing Structure</li> </ul>	<ul style="list-style-type: none"> <li>□ Landing Zone (LZ)</li> <li>□ Pull Site (PS)</li> <li>□ Work Area (WA)</li> <li>□ Crane Work Area (CWA)</li> <li>□ Work Area/Pull Site (WA/PS)</li> </ul>	<ul style="list-style-type: none"> <li>● Paved Access Road</li> <li>● Gravel Access Road</li> <li>● Dirt Access Road</li> <li>● Overland Access Route</li> </ul>	<ul style="list-style-type: none"> <li>□ ECCC HCP/NCCP Area</li> <li>□ Disturbance Area</li> <li>□ Potential Burrowing Owl Habitat</li> <li>□ Potential San Joaquin Kit Fox Habitat</li> <li>□ Potential Alameda Whipsnake Habitat</li> <li>◆ Project-Specific California Red-Legged Frog Observation</li> </ul>	<ul style="list-style-type: none"> <li>● Burrowing Owl</li> <li>● Common Raven</li> <li>● Great Horned Owl</li> <li>● Golden Eagle</li> <li>● Red-tailed Hawk</li> <li>● Swainson's Hawk</li> <li>● White-tailed Kite</li> </ul>	<p>Notes:</p> <ul style="list-style-type: none"> <li>• No Covered or No-Take plant species were observed within our Project Area during the 2010, 2011, and 2013 botanical surveys.</li> <li>• The center point of each Crane Work Area has been shown in its approximate location. Work within each Crane Work Area will be limited to the existing paved roadway, shoulder, and/or sidewalk. Each Crane Work Area will be approximately 200 feet long.</li> <li>• Avian survey results have been labeled with the year of the occurrence. Avian survey results have been labeled with the year of the observation. The following suffixes have been added to the observation year: N = Nest, A = Alternate Nest, P = Perching, R = Removed Nest, S = Sign.</li> </ul>
--	---	--	--	--	---

**CNDB Occurrences in Map Extent**

- big tarplant
- burrowing owl

1:6,800

0 250 500 1,000 Feet

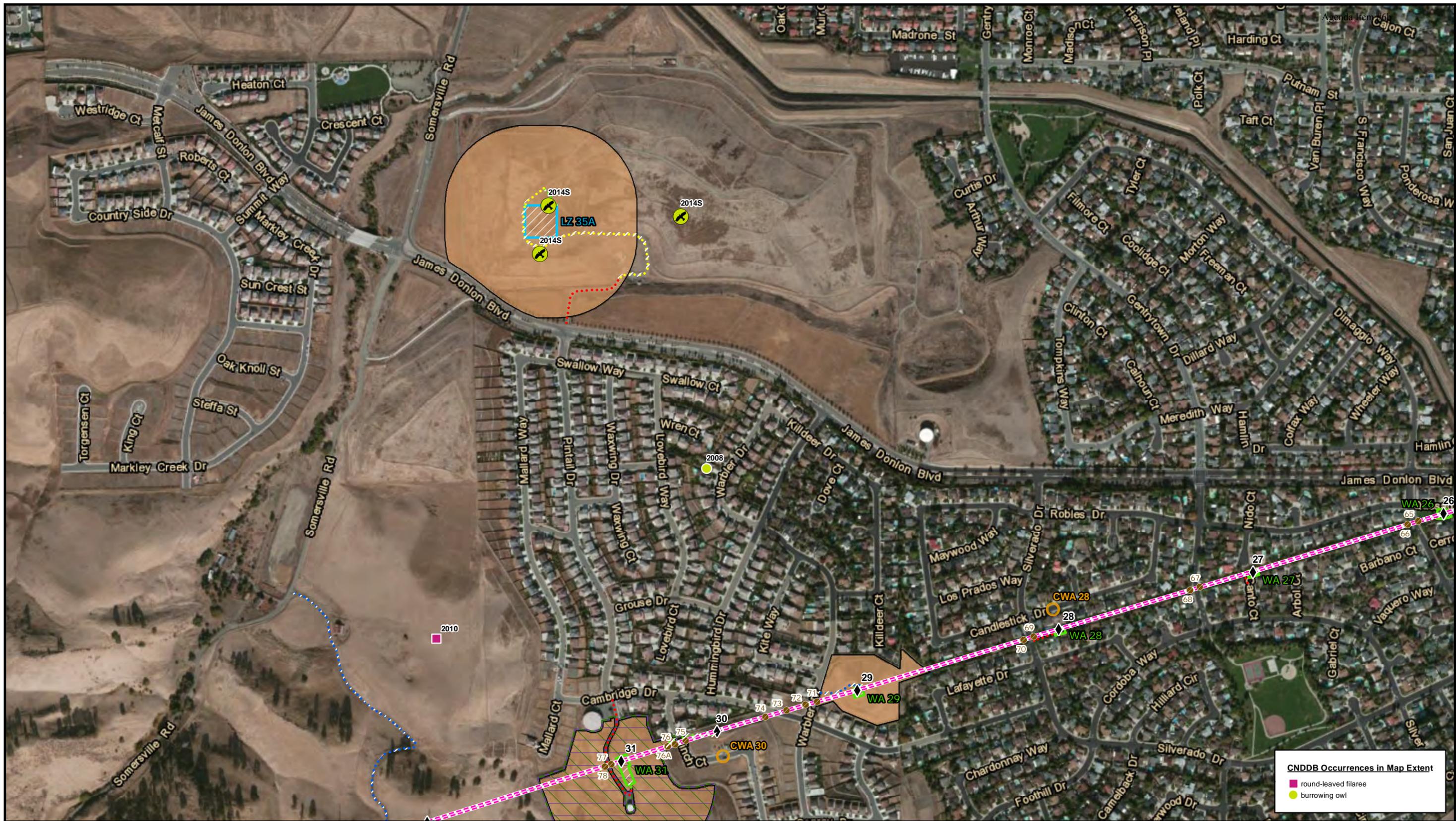


Figure 4: Biological Survey Results within ECCC HCP/NCCP Area Map 5 of 9

Contra Costa-Moraga 230 kV Reconductoring Project

- |  |   |  |  |  |
|--|---|--|--|--|
| <ul style="list-style-type: none"> <li>--- Contra Costa-Moraga 230 kV Line</li> <li>▲ Existing Substation</li> <li>■ Existing Tower</li> <li>◆ Modified Tower</li> <li>● Crossing Structure</li> </ul> | <ul style="list-style-type: none"> <li>□ Landing Zone (LZ)</li> <li>□ Pull Site (PS)</li> <li>□ Work Area (WA)</li> <li>□ Crane Work Area (CWA)</li> <li>□ Work Area/Pull Site (WA/PS)</li> </ul> | <ul style="list-style-type: none"> <li>--- Paved Access Road</li> <li>--- Gravel Access Road</li> <li>--- Dirt Access Road</li> <li>--- Overland Access Route</li> </ul> | <ul style="list-style-type: none"> <li>□ ECCC HCP/NCCP Area</li> <li>□ Disturbance Area</li> <li>□ Potential Burrowing Owl Habitat</li> <li>□ Potential San Joaquin Kit Fox Habitat</li> <li>□ Potential Alameda Whipsnake Habitat</li> <li>◆ Project-Specific California Red-Legged Frog Observation</li> </ul> | <ul style="list-style-type: none"> <li>● Burrowing Owl</li> <li>● Common Raven</li> <li>● Great Horned Owl</li> <li>● Golden Eagle</li> <li>● Red-tailed Hawk</li> <li>● Swainson's Hawk</li> <li>● White-tailed Kite</li> </ul> |
|--|---|--|--|--|

Notes:

- No Covered or No-Take plant species were observed within our Project Area during the 2010, 2011, and 2013 botanical surveys.
- The center point of each Crane Work Area has been shown in its approximate location. Work within each Crane Work Area will be limited to the existing paved roadway, shoulder, and/or sidewalk. Each Crane Work Area will be approximately 200 feet long.
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1:6,800

0 250 500 1,000 Feet



Figure 4: Biological Survey Results within ECCC HCP/NCCP Area Map 6 of 9

Contra Costa-Moraga 230 kV Reconductoring Project

- |  |   |  |  |   |   |
|--|---|--|--|---|---|
| <ul style="list-style-type: none"> <li>--- Contra Costa-Moraga 230 kV Line</li> <li>▲ Existing Substation</li> <li>■ Existing Tower</li> <li>◆ Modified Tower</li> <li>● Crossing Structure</li> </ul> | <ul style="list-style-type: none"> <li>□ Landing Zone (LZ)</li> <li>□ Pull Site (PS)</li> <li>□ Work Area (WA)</li> <li>□ Crane Work Area (CWA)</li> <li>□ Work Area/Pull Site (WA/PS)</li> </ul> | <ul style="list-style-type: none"> <li>● Paved Access Road</li> <li>● Gravel Access Road</li> <li>● Dirt Access Road</li> <li>● Overland Access Route</li> </ul> | <ul style="list-style-type: none"> <li>□ ECCC HCP/NCCP Area</li> <li>□ Disturbance Area</li> <li>□ Potential Burrowing Owl Habitat</li> <li>□ Potential San Joaquin Kit Fox Habitat</li> <li>□ Potential Alameda Whipsnake Habitat</li> <li>◆ Project-Specific California Red-Legged Frog Observation</li> </ul> | <ul style="list-style-type: none"> <li>● Burrowing Owl</li> <li>● Common Raven</li> <li>● Great Horned Owl</li> <li>● Golden Eagle</li> </ul> | <ul style="list-style-type: none"> <li>● Red-tailed Hawk</li> <li>● Swainson's Hawk</li> <li>● White-tailed Kite</li> </ul> |
|--|---|--|--|---|---|

Notes:

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**CNDB Occurrences in Map Extent**

- chaparral ragwort
- Hall's bush-mallow
- ◆ San Joaquin pocket mouse
- ◆ San Joaquin kit fox

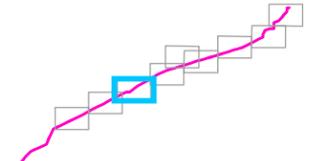
Figure 4: Biological Survey Results within ECCC HCP/NCCP Area Map 7 of 9

Contra Costa-Moraga 230 kV Reconductoring Project

- |                                     |                               |                         |   |                    |                     |
|-------------------------------------|-------------------------------|-------------------------|---|--------------------|---------------------|
| --- Contra Costa-Moraga 230 kV Line | ■ Landing Zone (LZ)           | ● Paved Access Road     | ■ ECCC HCP/NCCP Area                                      | ● Burrowing Owl    | ● Red-tailed Hawk   |
| ▲ Existing Substation               | ■ Pull Site (PS)              | ● Gravel Access Road    | --- Disturbance Area                                      | ● Common Raven     | ● Swainson's Hawk   |
| ■ Existing Tower                    | ■ Work Area (WA)              | ● Dirt Access Road      | ■ Potential Burrowing Owl Habitat                         | ● Great Horned Owl | ● White-tailed Kite |
| ◆ Modified Tower                    | ■ Crane Work Area (CWA)       | ● Overland Access Route | ■ Potential San Joaquin Kit Fox Habitat                   | ● Golden Eagle     |                     |
| ● Crossing Structure                | ■ Work Area/Pull Site (WA/PS) |                         | ■ Potential Alameda Whipsnake Habitat                     |                    |                     |
|                                     |                               |                         | ◆ Project-Specific California Red-Legged Frog Observation |                    |                     |

**Notes:**

- No Covered or No-Take plant species were observed within our Project Area during the 2010, 2011, and 2013 botanical surveys.
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- Avian survey results have been labeled with the year of the occurrence. The following suffixes have been added to the observation year: N = Nest, A = Alternate Nest, P = Perching, R = Removed Nest, S = Sign.



1:6,800 Feet

0 250 500 1,000



**CNDDDB Occurrences in Map Extent**  
 ■ round-leaved filaree

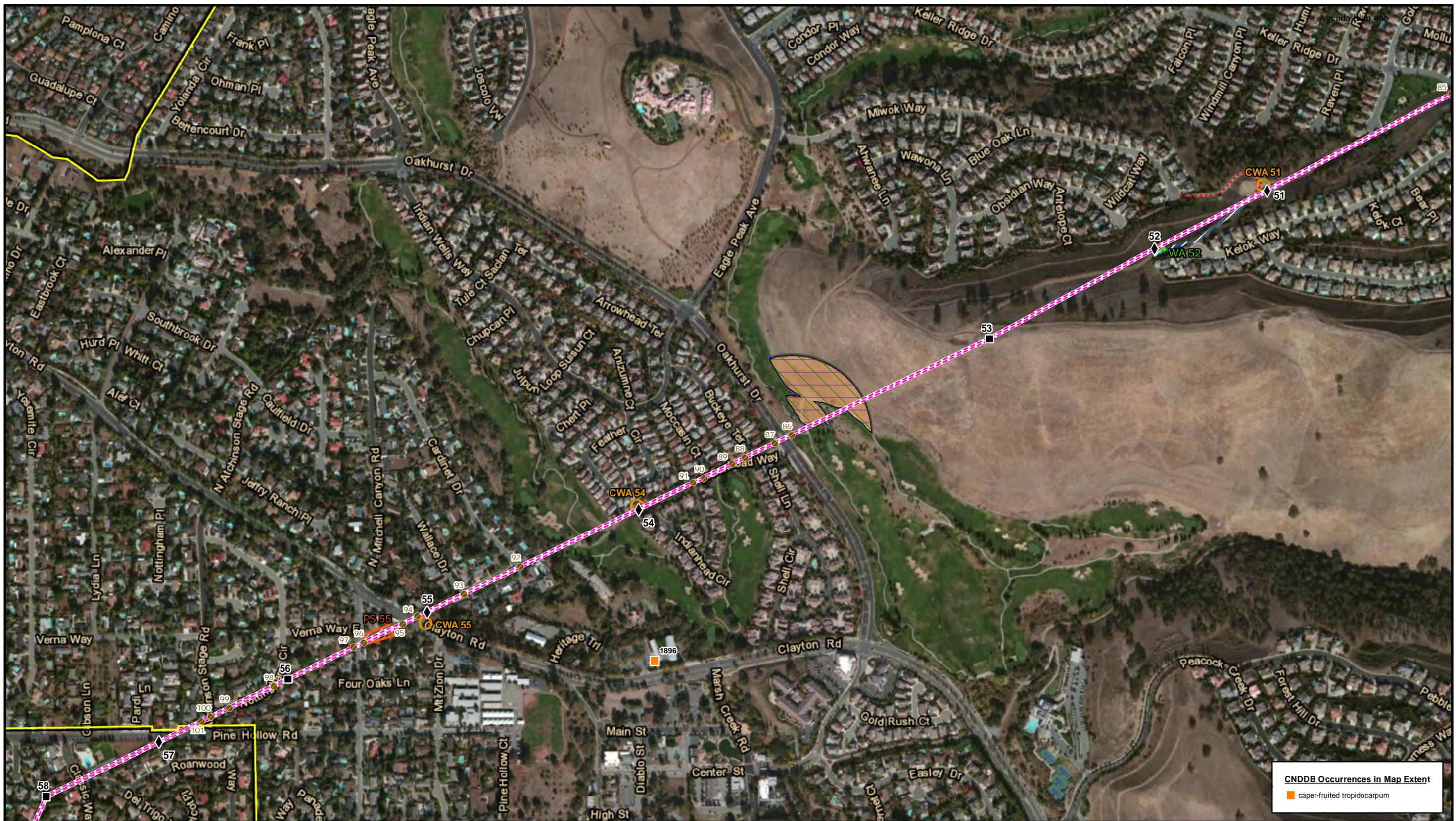
Figure 4: Biological Survey Results within ECCC HCP/NCCP Area Map 8 of 9

Contra Costa-Moraga 230 kV Reconductoring Project

<ul style="list-style-type: none"> <li>--- Contra Costa-Moraga 230 kV Line</li> <li>▲ Existing Substation</li> <li>■ Existing Tower</li> <li>◆ Modified Tower</li> <li>● Crossing Structure</li> </ul>	<ul style="list-style-type: none"> <li>□ Landing Zone (LZ)</li> <li>□ Pull Site (PS)</li> <li>□ Work Area (WA)</li> <li>□ Crane Work Area (CWA)</li> <li>□ Work Area/Pull Site (WA/PS)</li> </ul>	<ul style="list-style-type: none"> <li>● Paved Access Road</li> <li>● Gravel Access Road</li> <li>● Dirt Access Road</li> <li>● Overland Access Route</li> </ul>	<ul style="list-style-type: none"> <li>□ ECCC HCP/NCCP Area</li> <li>□ Disturbance Area</li> <li>□ Potential Burrowing Owl Habitat</li> <li>□ Potential San Joaquin Kit Fox Habitat</li> <li>□ Potential Alameda Whipsnake Habitat</li> <li>◆ Project-Specific California Red-Legged Frog Observation</li> </ul>	<ul style="list-style-type: none"> <li>● Burrowing Owl</li> <li>● Common Raven</li> <li>● Great Horned Owl</li> <li>● Golden Eagle</li> </ul>	<ul style="list-style-type: none"> <li>● Red-tailed Hawk</li> <li>● Swainson's Hawk</li> <li>● White-tailed Kite</li> </ul>	<p>Notes:</p> <ul style="list-style-type: none"> <li>• No Covered or No-Take plant species were observed within our Project Area during the 2010, 2011, and 2013 botanical surveys.</li> <li>• The center point of each Crane Work Area has been shown in its approximate location. Work within each Crane Work Area will be limited to the existing paved roadway, shoulder, and/or sidewalk. Each Crane Work Area will be approximately 200 feet long.</li> <li>• Avian survey results have been labeled with the year of the occurrence. Avian survey results have been labeled with the year of the observation. The following suffixes have been added to the observation year: N = Nest, A = Alternate Nest, P = Perching, R = Removed Nest, S = Sign.</li> </ul>
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1:6,800 Feet

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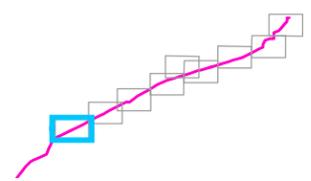
**CNDDDB Occurrences in Map Extent**  
 ■ caper-fruited tropidocarpum

Figure 4: Biological Survey Results within ECCC HCP/NCCP Area Map 9 of 9

Contra Costa-Moraga 230 kV Reconductoring Project

- |  |   |  |  |   |   |
|--|---|--|--|---|---|
| <ul style="list-style-type: none"> <li>--- Contra Costa-Moraga 230 kV Line</li> <li>▲ Existing Substation</li> <li>■ Existing Tower</li> <li>◆ Modified Tower</li> <li>● Crossing Structure</li> </ul> | <ul style="list-style-type: none"> <li>□ Landing Zone (LZ)</li> <li>□ Pull Site (PS)</li> <li>□ Work Area (WA)</li> <li>□ Crane Work Area (CWA)</li> <li>□ Work Area/Pull Site (WA/PS)</li> </ul> | <ul style="list-style-type: none"> <li>● Paved Access Road</li> <li>● Gravel Access Road</li> <li>● Dirt Access Road</li> <li>● Overland Access Route</li> </ul> | <ul style="list-style-type: none"> <li>■ ECCC HCP/NCCP Area</li> <li>□ Disturbance Area</li> <li>■ Potential Burrowing Owl Habitat</li> <li>□ Potential San Joaquin Kit Fox Habitat</li> <li>□ Potential Alameda Whipsnake Habitat</li> <li>◆ Project-Specific California Red-Legged Frog Observation</li> </ul> | <ul style="list-style-type: none"> <li>● Burrowing Owl</li> <li>● Common Raven</li> <li>● Great Horned Owl</li> <li>● Golden Eagle</li> </ul> | <ul style="list-style-type: none"> <li>● Red-tailed Hawk</li> <li>● Swainson's Hawk</li> <li>● White-tailed Kite</li> </ul> |
|--|---|--|--|---|---|

Notes:  
 • No Covered or No-Take plant species were observed within our Project Area during the 2010, 2011, and 2013 botanical surveys.  
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Pacific Gas and Electric Company  
 NSIGNIA ENVIRONMENTAL

**EAST CONTRA COSTA COUNTY  
HABITAT CONSERVANCY**

**DATE:** October 27, 2014  
**TO:** Governing Board  
**FROM:** Conservancy Staff  
**SUBJECT:** CEQA Species Analysis

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**RECOMMENDATION**

**REVIEW** the draft report entitled, **Assessment of Plan Effects on California Environmental Quality Act (CEQA) Species**, **REFER** this matter to the **Public Advisory Committee (PAC)** and circulate the **Report to the Conservancy stakeholders and Wildlife Agency staff for additional review and recommendation**; and **DIRECT** staff to report back to the **Governing Board**.

**BACKGROUND**

As set forth in the HCP/NCCP (Section 1.3.4), the Conservancy is responsible for preparing a document that will analyze the benefits that Plan implementation will have on special status species that are not explicitly covered by the Plan. Staff initiated this task and has worked with H.T. Harvey and Associates with additional review and input from staff at ICF Jones & Stokes. The attached draft report: "East Contra Costa County HCP/NCCP: Assessment of Plan Effects on CEQA Species" was developed.

This report provides an assessment of the effects of the Plan on 59 special-status species that were not covered by the Plan but are often addressed in CEQA analyses ("CEQA species"), 41 plant and 18 animal species. The purpose of the assessment is to provide a programmatic, cumulative CEQA effects analysis for CEQA species taking into account impacts of all covered activities, including all adverse and beneficial effects of covered development activities and conservation measures. The cumulative effect on each species was determined to be beneficial, neutral, or adverse but less-than-significant, by considering the number of

CONTINUED ON ATTACHMENT: Yes  
ACTION OF BOARD ON: October 27, 2014  
OTHER: \_\_\_\_\_

APPROVED AS RECOMMENDED: \_\_\_\_\_

**VOTE OF BOARD MEMBERS**

   UNANIMOUS  
AYES: \_\_\_\_\_  
NOES: \_\_\_\_\_  
ABSENT: \_\_\_\_\_  
ABSTAIN: \_\_\_\_\_

I HEARBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF AN ACTION TAKEN AND ENTERED ON THE MEETING RECORD OF THE CONSERVANCY GOVERNING BOARD ON THE DATE SHOWN.

ATTESTED \_\_\_\_\_  
*John Kopchik, INTERIM SECRETARY OF THE EAST CONTRA COSTA COUNTY HABITAT CONSERVANCY*

BY: \_\_\_\_\_, DEPUTY

known populations and extent of suitable habitat that could be adversely affected within areas of anticipated development as well as those that would benefit from being in areas that may be preserved, enhanced, and managed for covered species and communities by the Plan.

The Final Report could be referenced in future CEQA documents for individual covered projects and may enable these analyses to be completed more efficiently and effectively.

With any additional direction from the Board, staff will gather input from the PAC, other interested stakeholders and Plan partners including the U.S. Fish and Wildlife and California Department of Fish and Wildlife. After soliciting and incorporating comments in the draft, staff will bring the Report back to the Board.

**EAST CONTRA COSTA COUNTY  
HABITAT CONSERVANCY**

**DATE:** October 27, 2014  
**TO:** Governing Board  
**FROM:** Conservancy Staff  
**SUBJECT:** Antioch HCP/NCCP - Section 6 Funding and Match Requirements

**RECOMMENDATION**

**AUTHORIZE staff to send a letter to the City of Antioch regarding available match funding for the Section 6 Planning Grant for an Antioch HCP/NCCP and AUTHORIZE staff to expend up to \$25,000 of the available funds for immediate work on this matter.**

**DISCUSSION**

Staff from the East Contra Costa County Habitat Conservancy and the City of Antioch worked together to develop a grant proposal to the California Department of Fish and Wildlife and the U.S. Fish and Wildlife Service for funds to develop an HCP/NCCP to cover the City of Antioch. In September 2014 the U.S. Fish and Wildlife Service announced Grant awards from the Cooperative Endangered Species Fund. The City of Antioch was awarded \$688,000 to develop an HCP/NCCP. The grant award requires a 25% local match.

The East Contra Costa County Habitat Conservancy has maintained a consistent position of support for the development of an Antioch HCP/NCCP and has set aside funds to assist the City of Antioch with the match requirement. Through the Conservancy's Participating Special Entity Agreement with the Contra Costa Generation Station, LLC for impacts associated with the Oakley Generating Station, a contribution to complementary conservation planning was made in the amount of \$100,000 which is in excess of other required fees. This PSE agreement was executed in 2011 and these funds have been paid to the Conservancy. The intention was for these to be used to assist the City of Antioch with matching funds for the development of an Antioch HCP/NCCP if they decided to move forward with such an effort.

CONTINUED ON ATTACHMENT: No  
ACTION OF BOARD ON: October 27, 2014 APPROVED AS RECOMMENDED: \_\_\_\_\_  
OTHER: \_\_\_\_\_

**VOTE OF BOARD MEMBERS**

\_\_\_ UNANIMOUS  
AYES: \_\_\_\_\_  
NOES: \_\_\_\_\_  
ABSENT: \_\_\_\_\_  
ABSTAIN: \_\_\_\_\_

I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF AN ACTION TAKEN AND ENTERED ON THE MEETING RECORD OF THE CONSERVANCY GOVERNING BOARD ON THE DATE SHOWN.

ATTESTED \_\_\_\_\_  
*John Kopchik, INTERIM SECRETARY OF THE EAST CONTRA COSTA COUNTY HABITAT CONSERVANCY*

BY: \_\_\_\_\_, DEPUTY

Antioch staff will be reporting to the City Council and seeking authorization to enter into a grant contract to accept the funds. Full expenditure of the grant funds will ultimately require approximately \$229,000 in non-federal match. Antioch staff has requested a letter from the Conservancy documenting the availability of the \$100,000 in matching funds in order to document to the Council that a significant fraction of the necessary match is secure.

In addition to recommending submission of the letter, Conservancy staff also recommends that the Conservancy initiate expenditure of up to \$25,000 of these matching funds once such expenditures are eligible to be credited as match. There is likely to be a gap of several months between the start of the period when match expenditures may be credited and the signing of the grant agreement. Only those expenses incurred after the grant agreement is signed may be reimbursed with grant funds. Conservancy staff recommends that Conservancy expend up to \$25,000 in coordination with the City of Antioch during that interim period for consulting services to conduct foundational work for the initiation of the planning effort. Such work could include developing a scope of work for the effort, managing coordination among involved parties, and starting to define feasible strategies for developing the Antioch Plan in a streamlined manner that builds on the existing Plan as much as possible, including defining feasible approaches to interim projects. Given the recent strengthening of the development market, it is critical that work on an Antioch Plan commence immediately. The later work commences and the later it concludes, the less benefit there will be for the Antioch Plan.

**EAST CONTRA COSTA COUNTY  
HABITAT CONSERVANCY**

**DATE:** October 27, 2014  
**TO:** Governing Board  
**FROM:** Conservancy Staff (Abigail Fateman)  
**SUBJECT:** Viera/Perley Property Acquisition

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**RECOMMENDATION**

AUTHORIZE staff to execute a funding agreement with the East Bay Regional Park District (“EBRPD”), one state grant agreement and one federal subgrant agreement with the California Wildlife Conservation Board (WCB) for state and federal funds for acquisition of the Viera/Perley Property (APNs 080-070-003 and 080-070-005), Morgan Territory Road, Clayton, California.

**DISCUSSION**

**Overview of Property and Potential Acquisition:**

The Viera/Perley property (Property) totals approximately 260.02 acres and is located on Morgan Territory Road in Clayton, California. Photos and maps showing the Property, its location and condition are provided in the attached Pre-Acquisition Assessment.

The Property is currently owned by David F. Viera, Barbara J. Perley and Mary Delameter, as Trustees of the Lucy E. Viera Trust U/D 10/5/84 and Barbara J. Perley, Trustee of the Barbara J. Perley Revocable Trust (Seller). East Bay Regional Park District (EBRPD) and the Seller have reached agreement on the purchase of the Property. EBRPD commissioned an appraisal of the Property which was completed August 26, 2014 and established the fair market value of the Property at \$1,950,000, which is also the purchase price.

EBRPD’s purchase is contingent on support from the Conservancy.

CONTINUED ON ATTACHMENT: <u>Yes</u>		
ACTION OF BOARD ON: <u>October 27, 2014</u>	APPROVED AS RECOMMENDED: _____	
OTHER: _____		
<b><u>VOTE OF BOARD MEMBERS</u></b>		
___ UNANIMOUS		
AYES: _____	I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF AN ACTION TAKEN AND ENTERED ON THE MEETING RECORD OF THE CONSERVANCY GOVERNING BOARD ON THE DATE SHOWN.  ATTESTED _____ <i>John Kopchik, SECRETARY OF THE EAST CONTRA COSTA COUNTY HABITAT CONSERVANCY</i>	
NOES: _____		
ABSENT: _____		
ABSTAIN: _____		
		BY: _____, DEPUTY

**Proposed Funding Plan:** The proposed funding plan for the acquisition of the Property is provided in Table 1 below. None of the Conservancy’s own funds are proposed.

**Table 1. Proposed Funding for Purchase of Property**

Source	Total
EBRPD	\$195,000
Federal Section 6 HCP Land Acquisition Grant	\$877,500
WCB Proposition 84 Grant	\$877,500
<b>Total</b>	<b>\$1,950,000</b>

The Federal Section 6 funds necessary to implement the Proposed Funding Plan are available through previously approved grant awards to the State for implementation of the ECCC HCP/NCCP and the Property is an eligible property under these approved awards. A subgrant agreement with WCB is necessary to expend the federal funds (see additional information on necessary agreements below). The Proposition 84 funds necessary to implement the Proposed Funding Plan have already been appropriated by the Legislature to be available to Delta County NCCPs, but a grant agreement with WCB is necessary to expend the funds. EBRPD would provide its contribution through Measure WW Bond Funds (Measure WW was approved by the voters in 2008). No Conservancy funds would be contributed to the purchase.

Staff recommends the proposed funding plan because:

- The Funding Plan should rely most on those funding sources that are nearest to expiring or otherwise being lost. \$5.46 million in currently unspent Section 6 grant funds are scheduled to expire in 2015. Proposition 84 grant funds are distributed on a first-come-first-serve basis. The Funding Plan relies most heavily on these two sources.
- The Conservancy’s direct contribution is \$0.

**Would Acquisition of the Property Help the Conservancy Achieve the Conservation Goals of the HCP/NCCP?**

Yes. Conservancy staff prepared a Pre-Acquisition Assessment of the Property to examine and document the biological resources and restoration potential on the Property and to assess the ability of the Property to meet the conservation requirements of the HCP/NCCP. The following excerpts from the Pre-Acquisition Assessment provide a summary of the Property (the full report is attached). Table 2 provides a summary of the collective acres of land cover that would be protected by this acquisition.

The Viera-Perley Property (property) is located in the southwestern region of the inventory area. The property supports a unique variety of habitat types including annual grassland, oak woodland, oak savanna, urban, pond, and creek. The property is located approximately 6 miles southeast of the Town of Clayton. The property is bisected by Morgan Territory Road and is bordered by Mount Diablo State Park to the south. The Property is located adjacent to or in close proximity to several acquisitions for the Preserve System including the Galvin, Moss Rock, Schwartz, and Adrienne Galvin properties. Acquisition of the property provides key support in expanding the landscape linkage along the southwest border of the inventory area.

The property is comprised of two parcels. The larger parcel (approximately 258 acres) is "L"-shaped, and is bisected by Morgan Territory Road in the central portion. An irregularly shaped 2-acre in-holding is located in the southern area of the property about 150 feet to the east of Morgan Territory Road.

The property topography is almost entirely moderately to steeply upslope from either side of Morgan Territory Road. Elevations range from a minimum of about 900 feet along the east side of Morgan Territory Road to a maximum of 1,330 feet in the central area of the western half of the property. There are two seasonal creeks in the most southern portion of the property roughly paralleling the south boundary that flow into Marsh Creek at a point just to the east of Morgan Territory Road. Marsh Creek is the most prominent water feature in the area, generally following the alignment of Morgan Territory Road and bisecting the subject property.

The property and surrounding areas have historically been utilized for grazing purposes. The terrain and soil types in the area are not conducive to more intensive forms of commercial agricultural, such as row or orchard crops, or even hay production.

The entire property is located in Zone 4 and would be the fourth acquisition in the 4h subzone. Subzone 4h is designated as high priority for acquisition for the Preserve System. High priority Zone 4 acquisitions are of critical importance to the HCP/NCCP because the area supports a variety of high quality habitat for several key species and serves a critical connectivity function.

Acquisition of the property would contribute to the natural land cover requirements in subzone 4h (264.34 acres). The presence of annual grassland (18.41 acres), oak savanna (12.02 acres), and oak woodland (233.72 acres) would also contribute to Preserve-wide acquisition requirements. The property provides suitable habitat for a variety of covered wildlife species including Townsend’s big-eared bat, golden eagle, Alameda whipsnake, western pond turtle, California tiger salamander, California red-legged frog, foothill yellow-legged frog. Suitable habitat is present for several covered plant species including big tarplant, round-leaved filaree, Mount Diablo manzanita, and Brewer’s dwarf flax. The property has restoration potential, including creek and pond restoration.

**Table 2. Land Cover Types on Property**

<b>Land Cover Type (acres)</b>	<b>Viera/Perley (acres)</b>	<b>HCP Land Acquisition Requirements (acres)</b>	<b>Percent of Land Acquisition Requirements</b>
Annual grassland	18.41	16,500	0.11%
Oak woodland	233.72	400	58.4%
Oak Savanna	12.02	500	2.4%
Pond	0.19	16	0.01%
Perennial Stream (feet)	2,018	4,224	47.8%
Intermittent Stream (feet)	4,159	2,112	197%

**Deadline:** The parties hope the transaction can close by April 30, 2015. The principal timing constraints will be the timing of the Conservancy's state and federal funds.

**Conservancy costs and funding sources:** The Conservancy's total out-of-pocket contribution to the acquisition would be \$0. The Conservancy would arrange for its grant funds to cover \$1,755,000.

**Future Conservancy actions:** The Board would need to approve a Management Plan that covers the Property and funding agreements for management.

**Agreements:** The Funding Agreement with EBRPD and the Subgrant Agreement with WCB would follow the general form shown in the attached templates, with funding amounts matching the Funding Plan described above.

**Reasons for recommendation:** Staff recommends the purchase of the Property for the following reasons:

- The Property has demonstrated willing sellers. Land acquisition under the HCP/NCCP is on a willing seller basis and must seize opportunities when presented.
- The Property is located in a high priority acquisition subzone and its preservation would help the Conservancy meet a number of more challenging land acquisition requirements of the HCP/NCCP including requirements for preservation of oak woodland, oak savanna, and streams.
- The Property is located in an area eligible for funding from the Conservancy's approved federal Section 6 grants and is also eligible for WCB funding. The Property can be acquired to meet the goals of the HCP/NCCP without expenditure of the Conservancy's own funds.
- The HCP/NCCP conservation requirements have a time element and all of the grant funds have a deadline for expenditure. The Conservancy shouldn't rush into acquisitions or choose speed over quality, but when presented with affordable opportunities to acquire lands that contribute HCP/NCCP conservation requirements, staff believes it is prudent for the Conservancy to act affirmatively.

**Attachments:**

- Pre-Acquisition Assessment for Viera/Perley
- Templates of EBRPD Funding Agreement, WCB Subgrant Agreement (federal), WCB Grant Agreement (state)



EAST CONTRA  
COSTA COUNTY  
HABITAT  
CONSERVANCY

City of Brentwood

City of Clayton

City of Oakley

City of Pittsburg

Contra Costa  
County

## East Contra Costa County HCP/NCCP Preserve System

### SITE IDENTIFICATION

#### Pre-Acquisition Assessment

**Site Name:** Viera-Perley Property

**Site Address/location:** Morgan Territory Road, Clayton, CA 94517

**Property APN(s) #:** 080-070-003 and 080-070-005

**Size of Parcel(s):** 260.02 acres

**Survey Overview:** The pre-acquisition assessment on potential preserve lands evaluates whether these lands will meet the requirements of the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan. The assessment includes the location, quantity, quality, and type of habitats and natural communities on the site, as well as other site conditions and infrastructure that would benefit or conflict with the preserve system's biological goals and objectives. This survey will help the East Contra Costa County Habitat Conservancy prioritize acquisition of preserve lands based on their relative contribution toward meeting the biological goals and objectives.

**Photo-documentation:** Photographs of landscape features and other aspects of the site are attached as Appendix A.

**Figures:** The following figures are attached as Appendix B.

- Regional Context (Figure 1)
- Consistency with HCP/NCCP Acquisition Priorities (Figure 2)
- Ortho Photo of Parcel (Figure 3)
- Terrestrial and Aquatic Land Cover Types (Figure 4)
- Ownership of Adjacent Properties (Figure 5)

## LANDSCAPE AND COMMUNITY LEVEL ELEMENTS

### I. Overview and Regional Context (Figures 1, 2 and 3)

The Viera-Perley Property (property) is located in the southwestern region of the inventory area. The property supports a unique variety of habitat types including annual grassland, oak woodland, oak savanna, urban, pond, and creek. The property is located approximately 6 miles southeast of the Town of Clayton. The property is bisected by Morgan Territory Road and is bordered by Mount Diablo State Park to the south. The Property is located adjacent to or in close proximity to several acquisitions for the Preserve System including the Galvin, Moss Rock, Schwartz, and Adrienne Galvin properties. Acquisition of the property provides key support in expanding the landscape linkage along the southwest border of the inventory area.

The property is comprised of two parcels. The larger parcel (approximately 258 acres) is "L"-shaped, and is bisected by Morgan Territory Road in the central portion. An irregularly shaped 2-acre in-holding is located in the southern area of the property about 150 feet to the east of Morgan Territory Road.

The property topography is almost entirely moderate to steep upslope from either side of Morgan Territory Road. Elevations range from a minimum of about 900 feet along the east side of Morgan Territory Road to a maximum of 1,330 feet in the central area of the western half of the property. There are two seasonal creeks in the most southern portion of the property roughly paralleling the south boundary that flow into Marsh Creek at a point just to the east of Morgan Territory Road. Marsh Creek is the most prominent water feature in the area, generally following the alignment of Morgan Territory Road and bisecting the subject property.

The property and surrounding areas have historically been utilized for grazing purposes. The terrain and soil types in the area are not conducive to more intensive forms of commercial agricultural, such as row or orchard crops, or even hay production.

The entire property is located in Zone 4 and would be the fourth acquisition in the 4h subzone. Subzone 4h is designated as high priority for acquisition for the Preserve System. High priority Zone 4 acquisitions are of critical importance to the HCP/NCCP because the area supports a variety of high quality habitat for several key species and serves a critical connectivity function.

Acquisition of the property would contribute to the natural land cover requirements in subzone 4h (264.34 acres). The presence of annual grassland (18.41 acres), oak savanna (12.02 acres), and oak woodland (233.72 acres) would also contribute to Preserve-wide acquisition requirements. The property provides suitable habitat for a variety of covered wildlife species including Townsend's big-eared bat, golden eagle, Alameda whipsnake, western pond turtle, California tiger salamander, California red-legged frog, foothill yellow-legged frog. Suitable habitat is present for several covered plant species including big tarplant, round-leaved filaree, Diablo manzanita, and Brewer's dwarf flax. The property has restoration potential, including creek and pond restoration.

**II. Land Cover Types (Figure 4)**

<b>Land Cover Type (see Chapter 3 of the HCP/NCCP for definitions)</b>	<b>Area (acres)</b>
<b>Terrestrial Land Cover Types</b>	
Annual grassland	18.41
Oak woodland	233.72
Oak savanna	12.02
Urban	0.03
<b>Total area of terrestrial land cover</b>	<b>264.18</b>
<b>Aquatic Land Cover Types</b>	
Pond	0.19
<b>Total area of aquatic land cover</b>	<b>0.19</b>

**III. Streams (Figure 4)**

<b>Stream</b>	<b>Length (linear feet)</b>
Creek or drainage	6,177
<b>Total streams (linear feet)</b>	<b>6,177</b>

**IV. Proximity to Development (see Figure 1)**

<b>Type of Development (urban, suburban, rural, commercial, etc.)</b>	<b>Distance from Site (miles)</b>	<b>General description of development and influence on site.</b>
Urban development	6.0 miles to the southwest, 6.0 miles to the northwest	Urban development is located approximately 6.0 miles to the southwest in the community of Blackhawk, and 6.0 miles to the northwest in the Town of Clayton
Fire station	3.0 miles to the north	A Cal Fire station is located approximately 3.0 miles to the north. This does not influence the property.
Rural residential development	0.5 mile to the north	7,000 square foot residence constructed in 1993 on a 40-acre parcel

**V. Requirements in Specific Acquisition Analysis Zones and Sub-Zones**

The site occurs in Conservation Analysis Zone(s) (see HCP Chapter 5, Figure 5-1):

- 1    2    3    4    5    6

**Contribution to Acquisition Analysis Zone Requirements**

<i>Sub-Zone Requirement</i>	<i>Total Requirement (MUDA acres)</i>	<i>Contribution by this Acquisition (acres)</i>	<i>Percentage of Requirement Met by Acquisition</i>
Subzone 4h	791	264.34 <sup>a</sup>	33.4%

<sup>a</sup> contribution includes annual grassland (18.41 acres), oak woodland (233.72 acres), oak savanna (12.02 acres), and pond (0.19 acres).

**Contribution to Overall Terrestrial Land Cover Acquisition Requirements**

<i>Land-Cover Requirement</i>	<i>Total Requirement (acres)</i>	<i>Contribution by this Acquisition (acres)</i>	<i>Percentage of Requirement Met by Acquisition</i>
Preserve-wide Annual Grassland	16,500	18.41	0.11%
Preserve-wide Oak Savanna	500	12.02	2.4%
Preserve-wide Oak Woodland	400	233.72	58.4%

**Contribution to Overall Estimated Aquatic Acquisition Requirements**

<i>Jurisdictional Wetland and Waters Requirement</i>	<i>Total Requirement (acres)</i>	<i>Contribution by this Acquisition (acres)</i>	<i>Percentage of Requirement Met by Acquisition</i>
Preserve-wide Pond	16	0.19	0.01%
Preserve-wide Perennial stream (feet)	4,224	2,018	47.8%
Preserve-wide Intermittent stream (feet)	2,112	4,159	197%

**V. Site Conformance with Preserve Design Principles**

The following is a subset<sup>1</sup> of conservation biology principals that guide the design of HCP/NCCP Preserve System. This section briefly describes how design principles are addressed on site or how acquisition of this site could contribute to the Preserve System given the landscape context described in Section I. Not all design principals may be applicable or be evaluated at this time.

- **Size:** site has potential to contribute habitat for covered species and/or is large enough to maximize protection of species sensitive to disturbances from adjacent land use.
- **Linkage to other preserves:** site provides links to existing and proposed open spaces, parks, etc. Small and isolated preserves are necessary to protect isolated features or populations with high

<sup>1</sup> The design principles of high-quality communities and full ecological diversity within communities were excluded from the list due to the need for field verification by a qualified biologist and/or botanist.

biological importance (e.g., covered plant species populations, unique or especially diverse land cover types such as alkali wetlands).

- **Buffers urban impacts:** site includes buffer land within its boundaries that could minimize indirect effects from urban development.
- **Minimizes edge effects:** site shares a minimum amount of edge (i.e., should have the greatest possible area-to-perimeter ratio) with non-preserve land, especially urban development. Preserves with low area-to-perimeter ratios may be appropriate to protect linear features with high biological value, such as streams, riparian woodland, valley bottoms, or ridgelines essential to wildlife movement.
- **Fully represents environmental gradients:** includes or connects to open space/parks with a range of environmental gradients, such as topography, elevation, soil types, geologic substrates, slopes, and aspects.
- **Watershed protection:** site contributes to the protection of watersheds, subwatersheds, and headwater streams that are not already in protected status.
- **Management considerations:** desired management treatments such as livestock grazing, prescribed burning, exotic species control, and restoration should be feasible on site.

The property's large size (260.02 acres) has potential to contribute habitat for covered species and is large enough to maximize protection of species sensitive to disturbances from adjacent land use.

The property does provide a link to existing Preserve System lands or other open space. Mount Diablo State Park borders the property to the south and a portion of the Morgan Territory Regional Preserve abuts the south property line in the easternmost area. Three properties located immediately to the north of the eastern portion of the property have recently been acquired by East Bay Regional Parks District (EBRPD) for the Preserve System (Adrienne Galvin in 2013, and Galvin and Moss Rock in 2012).

The property, because it is surrounded by agricultural land and open space, includes buffer land adjacent to its boundaries that could minimize indirect effects from urban development.

Minimal urban development has occurred adjacent to the property. The property is located in a rural area of the town of Clayton that has seen significant small lot subdivision activity for residential purposes in the 1960s and 1970s. However, residential uses are typically located in close proximity to Morgan Territory Road and the majority of homes were established in the mid- to latter part of the 20<sup>th</sup> century. The property is bordered by rural residential and agricultural land uses to the north, south, east and west. This boundary will minimize any edge effects caused by adjacent urban development. Larger lot holdings are located to the east, northeast, and southeast of the property.

Most of the terrain within and surrounding the property consists of moderate to steep upslope lands interspersed with narrow valleys or canyons, with occasional plateaus or meadows, and partially wooded and partially open grasslands with occasional natural springs and man-made ponds as water sources.

The property contributes to the protection of watersheds. Marsh Creek is the most prominent water feature in the area, generally following the alignment of Morgan Territory Road and bisecting the property. A man-made pond is located close to the southern boundary of the property and has potential for restoration.

Needed management is feasible. The majority of the site is currently used for a grazing ranch and is typical of the rural land found in eastern Contra Costa County. Grazing is feasible in this area, as is restoration.

## BUILT FEATURES AND SITE CONSTRAINTS

**I. Describe evidence in the field of current and past land uses on the site (e.g. grazing; grading, earthwork, and construction; infrastructure; industry; etc.) and locate on the aerial:**

The site has been used primarily and historically for grazing. The smaller parcel (APN 080-070-005) is a 2.04 acre in-holding located in the southern portion of the property. This parcel has a small rough-graded bench that was potentially intended to serve as a building pad. The property is located outside of any urban boundary and cannot be served with municipal utilities.

**II. Describe the type and quantity of structures and impervious surfaces on the property and map on an aerial. This includes houses, barns, sheds, roads, etc.:**

The only structural improvement on the property, other than perimeter and cross-fencing, is a concrete cistern located to the east of Morgan Territory Road that was built to retain water pumped from an adjacent well. Morgan Territory Road bisects the property in a north-south direction and is a public right-of way.

There is an access road/ranch road from Morgan Territory Road to the smaller parcel. An access easement in favor of this parcel is identified in the preliminary title report but not clearly defined. The easement is assumed to follow the alignment of the existing ranch road.

**III. Map any ruderal areas (defined as disturbed areas characterized by sparse nonnative, typically weedy vegetation) and describe their condition:**

No ruderal lands occur on the property.

**IV. Discuss any management constraints that you have observed on this site (e.g. interior access roads, gates, fencing, boundary/edge issues, etc.):**

There are no obvious management constraints on the site.

**V. Describe land uses adjacent to the property that could influence the site's potential as a preserve (e.g., influence the ability to manage or restore the site):**

The site is located within an area of Contra Costa County that has been historically grazed. There has historically been limited subdivision activity in this area since the mid-1980s. Development has been primarily limited to minor subdivisions of one or two lots, and those have been few since the implementation of the Rural Residential Development policy by Contra Costa County with the adoption of the 1985 General Plan. The closest incorporated community is the Town of Clayton, which is about 6 miles to the northwest of the property.

**VI. Describe any populations of invasive plant species on site and document on an aerial photo:**

Significant populations of invasive plants have not been observed on the property.

**VII. Discuss any other possible constraints on this site as a potential preserve (water availability, habitat degradation, etc.):**

The property is located outside of any urban boundary and cannot be served with municipal utilities. Electrical service was at one time extended from the Morgan Territory Road right-of-way to a service drop at a well site but this is no longer functional. The well pump is now intended to be powered by a portable generator.

# Appendix A



Photo 1: Grassland and oak woodland



Photo 2: Young oak woodland



Photo 3: View of Mount Diablo



Photo 4: Oak savanna, oak woodland and grassland on the eastern portion of the property

## Appendix A (cont.)



Photo 5: Grassland and oak savanna on the eastern portion of property



Photo 6: View of Mount Diablo from the eastern portion of the property



Photo 7: Man-made pond (looking upstream)



Photo 8: Man-made pond (looking downstream)

Figure 1: Viera-Perley Parcel - Regional Context

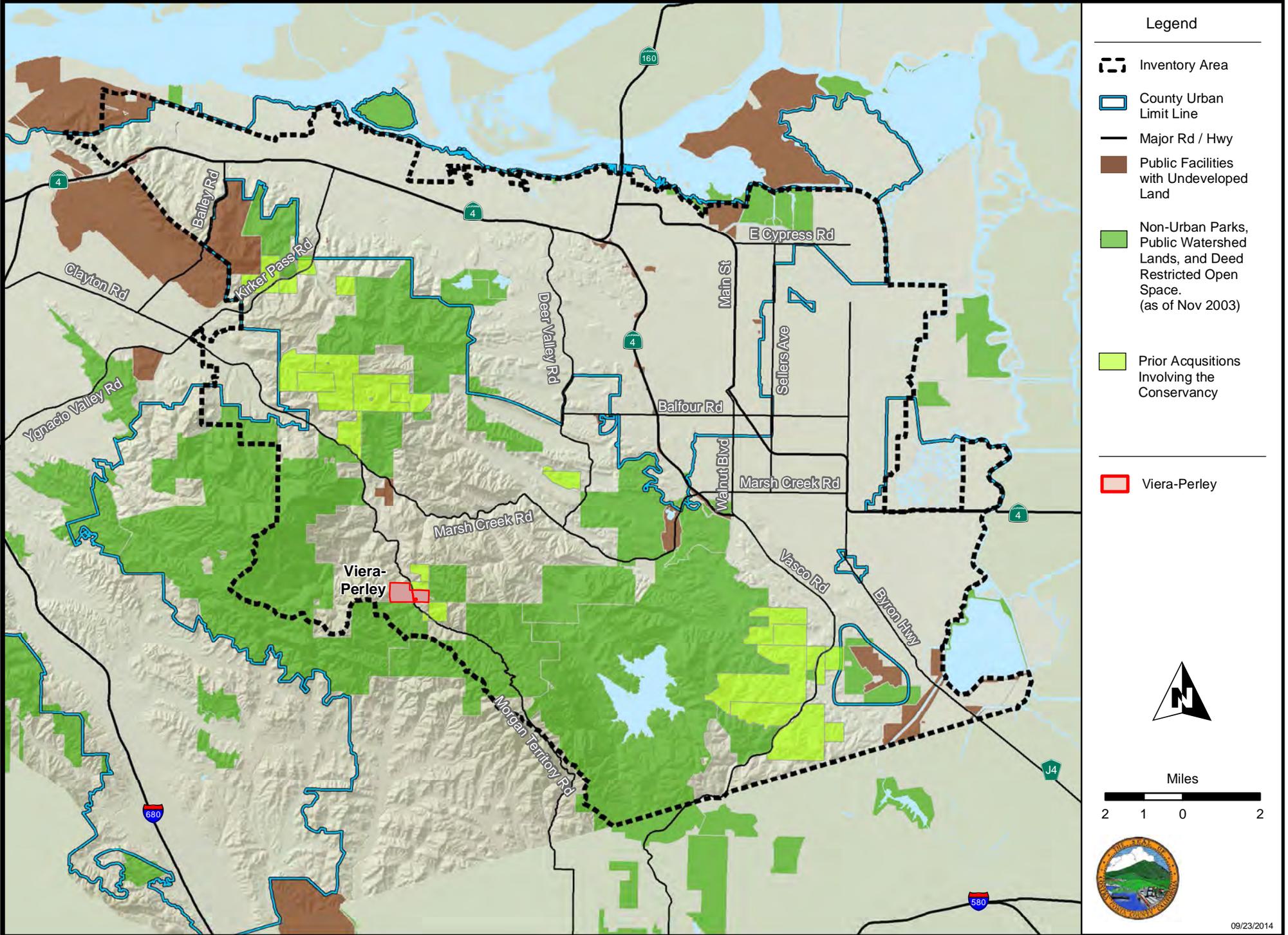
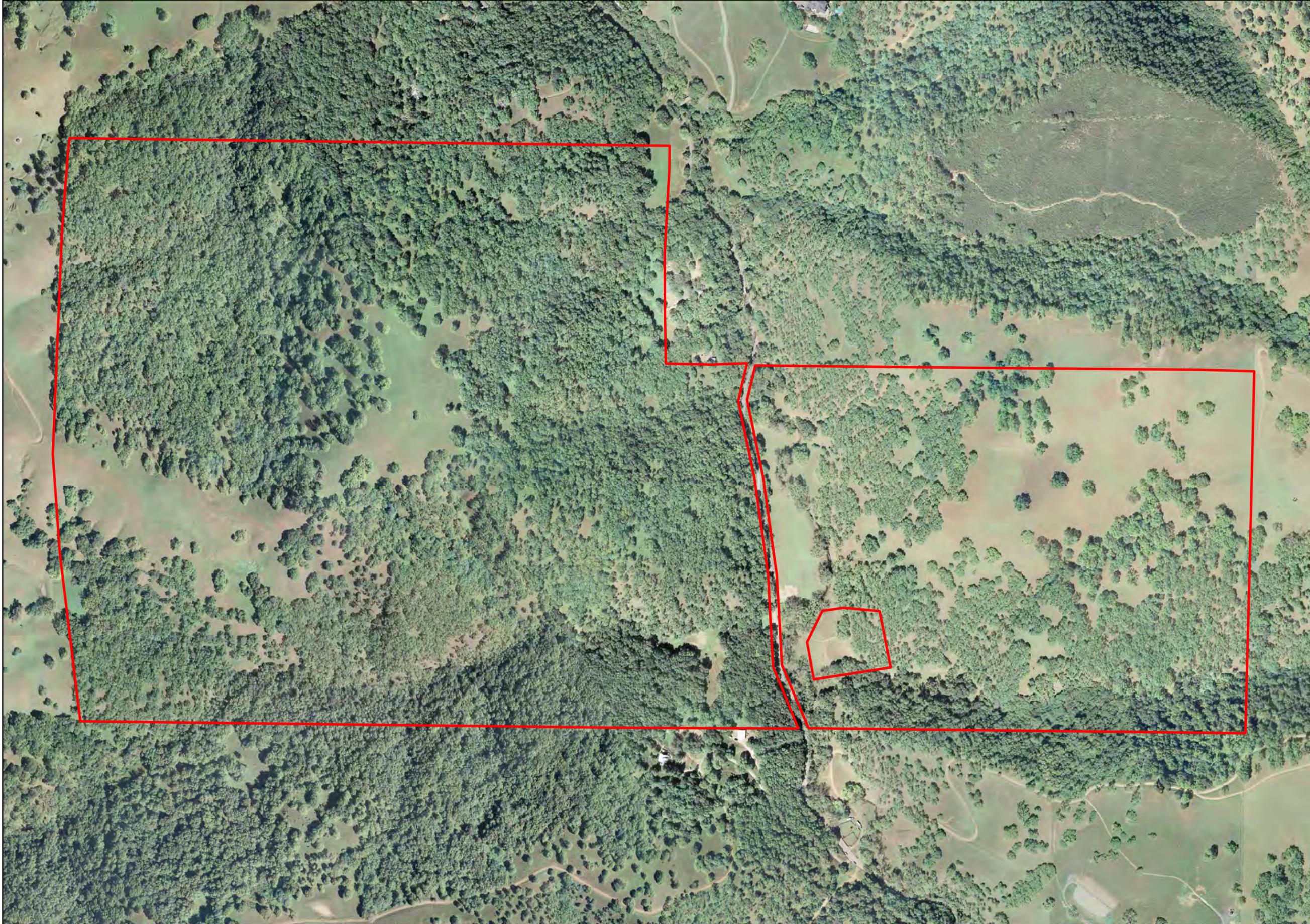




Figure 3: Viera-Perley parcel - April 2008 Orthophotography



Legend

 Viera-Perley

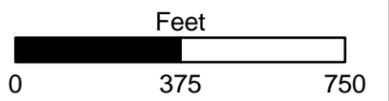
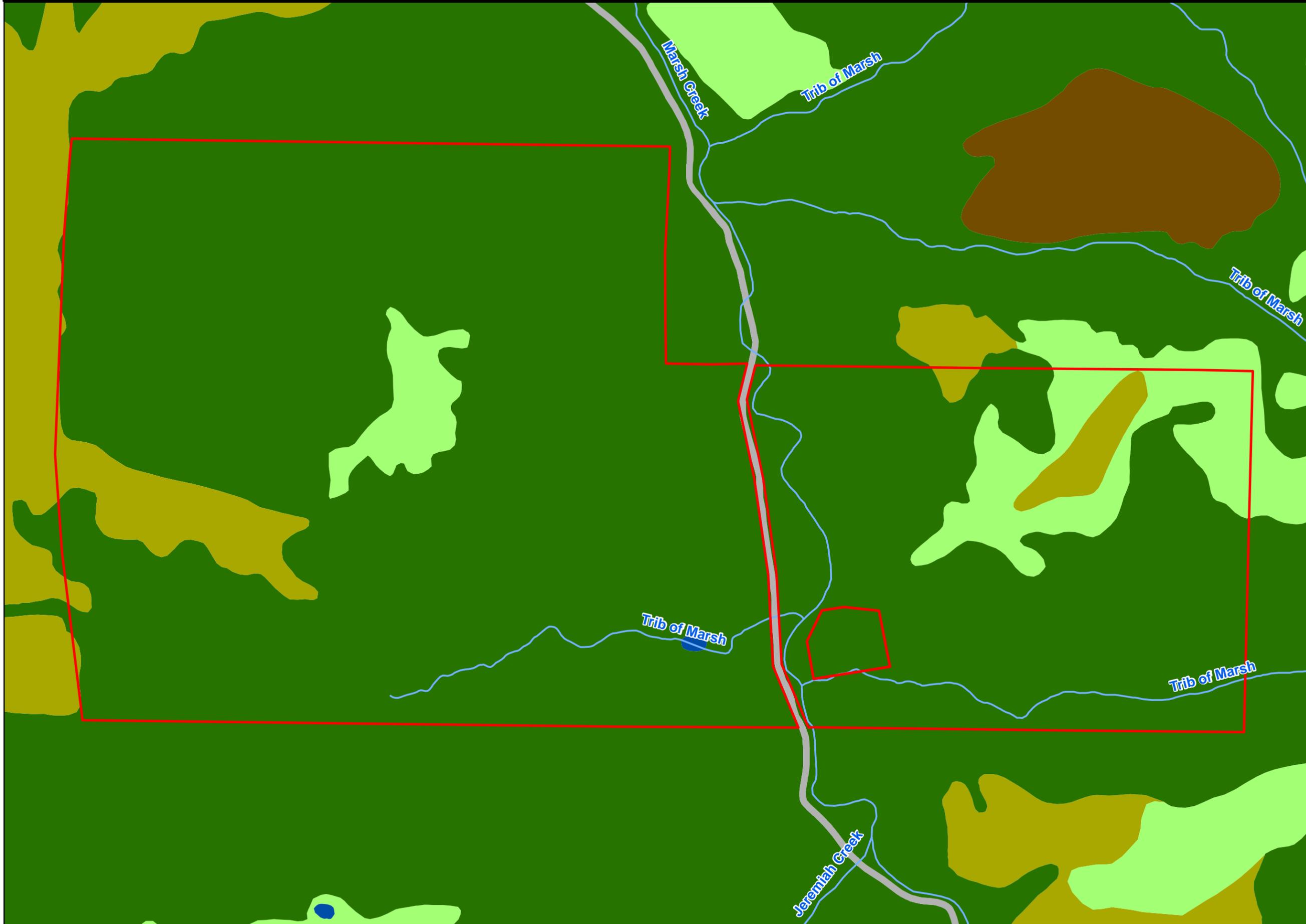
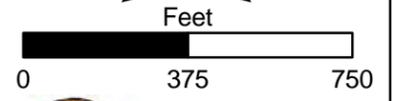


Figure 4. Viera-Perley parcel - Terrestrial and Aquatic Land Covers Types



Legend

- Parcel Under Study (264.37 acres)
- Creek or Drainage  
6,177 feet Total  
2,018 feet Perennial  
4,159 feet Intermittent
- alkali grassland
- alkali wetland
- aquatic
- aqueduct
- chaparral
- cropland
- grassland (18.41 ac)
- landfill
- non-native woodland
- oak savanna (12.02 ac)
- oak woodland (233.72 ac)
- orchard
- pasture
- permanent wetland
- pond (0.19 ac)
- riparian
- rock outcrops
- ruderal
- seasonal wetland
- slough/channel
- turf
- urban (0.03 ac)
- vineyard
- wetland
- wind turbines





**FUNDING AGREEMENT  
BY AND BETWEEN  
EAST CONTRA COSTA COUNTY HABITAT CONSERVANCY AND  
EAST BAY REGIONAL PARK DISTRICT  
(Insert Property Name)**

This **FUNDING AGREEMENT** (the “**Agreement**”), dated [redacted], 201[redacted], is by and between **EAST CONTRA COSTA COUNTY HABITAT CONSERVANCY**, a joint exercise of powers authority (“**Conservancy**”), and **EAST BAY REGIONAL PARK DISTRICT**, a California special district (“**District**”). Hereafter, Conservancy and District are collectively referred to herein as the “**Parties.**”

**Recitals**

A. Conservancy is implementing the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan (“**HCP/NCCP**”), dated October 2006, prepared by the East Contra Costa Habitat Conservation Planning Association and approved by the United States Fish and Wildlife Service (“**USFWS**”) under Section 10 of the Federal Endangered Species Act of 1973, as amended (16 U.S.C. Section 1531 *et seq.*), and by California Department of Fish and Wildlife (“**CDFW**”) under California Fish and Game Code Section 2835.

B. The HCP/NCCP provides a framework to protect natural resources in eastern Contra Costa County, to comprehensively conserve species, wetlands, and ecosystems, and to recover endangered species through creation of a preserve network.

C. District is a regional park district which owns and manages lands in Alameda and Contra Costa Counties. District is working cooperatively with the Conservancy to implement the HCP/NCCP as is appropriate and consistent with District’s mission.

D. District and [Insert Seller’s Name] (“**Seller**”) have entered into that certain Option Agreement, effective as of [redacted], 201[redacted], (the “**Option Agreement**”), providing for District’s acquisition of that certain real property comprised of approximately [Insert Numerical Acres] acres located in Contra Costa County, California that is legally described in **Exhibit A** attached hereto (the “**Property**”). The purchase price for the Property under the Option Agreement is [Insert Purchase Price (spelled out)] Dollars (\$[Insert Numerical Purchase Price]) (the “**Purchase Price**”).

E. The Property possesses significant ecological and habitat values that benefit endangered, threatened, and other species, including without limitation, habitat suitable for many or all of the following Covered Species (as defined in the HCP/NCCP) (collectively, the “**Property’s Covered Species**”): Townsend’s western big-eared bat (*Corynorhinus townsendii townsendii*), San Joaquin kit fox (*Vulpes macrotus mutica*), tricolored blackbird (*Agelaius tricolor*), golden eagle (*Aquila chrysaetos*), western

burrowing owl (*Athene cunicularia hypugea*), Swainson's Hawk (*Buteo swainsoni*), silvery legless lizard (*Anniella pulchra pulchra*), Alameda whipsnake (*Masticophis lateralis euryxanthus*), Giant garter snake (*Thamnopsis gigas*), western pond turtle (*Clemmys marmorata*), California tiger salamander (*Ambystoma californiense*), California red-legged frog (*Rana aurora draytonii*), foothill yellow-legged frog (*Rana boylei*), longhorn fairy shrimp (*Brachinecta longiantenna*), vernal pool fairy shrimp (*Brachinecta lynchi*), midvalley fairy shrimp (*Brachinecta mesovallensis*), vernal pool tadpole shrimp (*Lepidurus packardi*), Mount Diablo manzanita (*Arctostaphylos auriculata*), brittlescale (*Atriplex depressa*), San Joaquin spearscale (*Atriplex joanquiniana*), big tarplant (*Blepharizonia plumosa*), Mount Diablo fairy lantern (*Calochortus pulchellus*), recurved larkspur (*Delphinium recurvatum*), round-leaved filaree (*Erodium macrophyllum*), Diablo helianthella (*Helianthella castanea*), Brewer's dwarf flax (*Hesperolinon breweri*), showy madia (*Madia radiata*), and adobe navarretia (*Navarretia nigelliformis ssp. nigelliformis*).

F. Conservancy desires to provide to District, directly through the escrow set up for this purchase and sale between District and Seller, the funds to pay for [Insert Percentage (spelled out)] percent ([Insert Numerical Percentage]%) of the Purchase Price, for the purpose of advancing the requirements and goals of the HCP/NCCP through funding District's protection of the Property's Covered Species, subject to the terms and conditions set forth below in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein, the Parties hereby agree as follows:

**1. Conservancy Funding.** Subject to the terms, conditions and procedures set forth below, Conservancy shall provide to District the amount equal to [Insert Amount of Conservancy Funding (spelled out)] Dollars (\$[Insert Numerical Amount]) by [Insert Date], 201[ ] (the "**Conservancy Funding**"), which shall be used solely to fund the Purchase Price due Seller under the Option Agreement.

**2. Purpose of Conservancy Funding.** District covenants and agrees that if Conservancy provides the Conservancy Funding under this Agreement for District to acquire the Property, District will own, manage and use the Property for the purpose of protecting in perpetuity the Property's Covered Species in accordance with the HCP/NCCP and the other terms and conditions set forth in this Agreement (the "**Funding Purpose**").

**3. Conditions Precedent**

(a) **Conditions Precedent to Deposit of Conservancy Funding.** Conservancy's obligation to deposit the Conservancy Funding into the Escrow (as defined below) shall be subject to the satisfaction, or waiver by Conservancy in writing, of each of the following conditions precedent on or prior to the date escrow is to close under the Agreement (collectively, the "**Conservancy Funding Conditions Precedent**"):

(i) **Property Documents.** District shall have delivered to Conservancy, and Conservancy shall have reviewed and approved, a full and complete copy of all documents and reports obtained by District from Seller or prepared by or at the direction of District, that relate to the ownership, development, management, operation and/or use of the Property and/or any of the transactions contemplated by this Agreement, including, without limitation, the following (collectively, the “**Property Information**”):

(A) The Option Agreement, including any and all amendments and modifications thereto entered into by Seller and District; provided, however, Conservancy has previously reviewed and approved the Option Agreement;

(B) A current preliminary title report for the Property, together with a copy of each recorded document referenced in such report;

(C) A copy of each lease, contract, permit, license or other document or agreement that District has been provided evidencing any unrecorded third party rights to the Property which is currently in effect;

(D) A current appraisal of the Property, including any and all updates thereto; provided, however, that Conservancy has previously reviewed and approved the appraisal of the Property prepared by [Insert Name of Appraiser], [Insert Address of Appraiser], dated [redacted], 201[redacted];

(E) A current Phase 1 environmental site assessment for the Property; provided, that Conservancy has previously reviewed and approved Phase 1 for the Property prepared by [Insert Name of Company] dated [redacted], 201[redacted];

(F) A copy of all documentation in District’s possession or control relating to the water rights associated with or appurtenant to the Property; and

(G) A copy of any study, report or other written information or documents in District’s possession or control relating to the Property and the transactions contemplated by this Agreement or the Option Agreement, including, without limitation, maps, surveys, appraisals, environmental, soils and geotechnical reports, engineering reports, and mineral rights.

(ii) **No Defaults under the Option Agreement.** Neither District nor Seller shall be in default under any term, condition or

provision of the Option Agreement, and the Option Agreement shall remain in full force and effect.

(iii) **Additional Funding.** District shall have deposited, or caused to be deposited into the Escrow sufficient funds to pay all title, escrow and closing fees, costs, and expenses allocated to District in the Option Agreement or otherwise payable by District.

- (A) [Insert Option Payment Amount (spelled out)]s (\$[Insert Numerical Amount]) as the option payment (the “**Option Payment**”);
- (B) [Insert Payment Amount (spelled out)] Dollars (\$[Insert Numerical Amount]), which is District’s share of the Purchase Price, less the Option Payment; and
- (C) Sufficient funds to pay all title, escrow and closing fees, costs, and expenses allocated to District in the Option Agreement or otherwise payable by District.

(iv) **Approval of Closing Documents.** Conservancy shall have reviewed and approved the final form of all closing documents relating to District’s purchase of the Property from Seller under the Option Agreement including, without limitation, the following (collectively, the “**Closing Documents**”), each signed by all signatories thereto:

- (A) Grant Deed transferring the fee interest in the Property from Seller to District (the “**Grant Deed**”);
- (B) Escrow Instructions of Seller; and
- (C) Escrow Instructions of District.

(v) **Delivery of Closing Documents into Escrow.** All of the Closing Documents shall have been delivered into the Escrow with instructions from District to close the transactions contemplated by the Option Agreement and this Agreement in a manner that is not inconsistent with the separate escrow instructions delivered to Escrow Holder by Conservancy.

(vi) **Restrictive Covenant.** District shall be irrevocably committed to record in the Official Records of Contra Costa County (“**Official Records**”), concurrent with, but immediately following, recordation of the Grant Deed, a restrictive covenant covering the entire Property that is designed to provide for the perpetual protection of the Property’s Covered Species and otherwise comply with the requirements

of the HCP/NCCP and are in form and substance acceptable to Conservancy, USFWS and CDFW and sufficient to permit inclusion of the Property into the Preserve System under the HCP/NCCP (“**Restrictive Covenant**”); provided, however, if USFWS or CDFW have not approved the Restrictive Covenant prior to the Closing (as defined below), District shall record the Restrictive Covenant in the Official Records, as approved by USFWS and CDFW, as soon as reasonably possible following such approval. The Restrictive Covenant shall permit improvements to Deer Valley Road, as identified as a covered activity in the HCP/NCCP, and District public access improvements and recreational uses, consistent with the Preserve Management Plan (as defined below) and Section 6 below. [Insert Following if Applicable] Conservancy and District acknowledge that the proposed improvements to \_\_\_\_\_ Road along the east boundary of the property may require Contra Costa County (the “**County**”) to expand its right of way. Conservancy and District anticipate the County will request to purchase a narrow portion of the Property along its northern edge for this purpose. Conservancy and District acknowledge that one purpose of the right of way purchase may be to enable the County to construct the improvements while minimizing the use of retaining walls, which may be unsightly and may hinder wildlife movement. Conservancy and District acknowledge that sale of any portion of the Property will be subject to necessary approval of WCB, as that term is defined below. Attached hereto as **Exhibit B** is a draft of the Restrictive Covenant which is in a form and substance agreeable to Conservancy and District and which agreed upon draft shall be submitted to USFWS and CDFW for review and approval. Conservancy and District shall use their respective reasonable best efforts to negotiate with USFWS and CDFW a mutually acceptable final form of the Restrictive Covenant.

(vii) **Baseline Conditions Report.** Conservancy and District shall have reviewed and approved a final baseline conditions report for the Property, the initial draft of which shall have been prepared by or at the direction of Conservancy (“**Baseline Report**”), unless the Parties have agreed to waive preparation of the Baseline Report. The Baseline Report shall provide detailed information on the condition of the Property as of the date District acquires the Property from Seller. The Baseline Report shall be tailored to the terms and conditions of the Restrictive Covenant and the conservation values the Restrictive Covenant seeks to protect. The Baseline Report must be reviewed, approved, signed and certified by District on or before the Closing. District’s certification of the Baseline Report shall confirm that to the District’s best knowledge after diligent review of the final Baseline Report and inspection of the Property, the Baseline Report is a current and accurate description and representation of the physical condition and conservation values of the Property as of the Closing.

(viii) **Recordation of Closing Documents.** The Grant Deed and Restrictive Covenant shall have been delivered into the Escrow with District's irrevocable instructions to record such documents in the Official Records at the Closing; provided, however, if USFWS or CDFW have not approved the Restrictive Covenant prior to the Closing (as defined below), District shall record the Restrictive Covenant in the Official Records, as approved by USFWS and CDFW, as soon as reasonably possible following such approval.

(ix) **Grant Funding Requirements.** District understands that Conservancy intends to use federal and state grant funds made available to Conservancy through the California Wildlife Conservation Board ("**WCB**") [Insert Any Additional Grant Funders as Applicable and identify collectively as "Grant Funders"] to fund all of the Conservancy Funding. District further understands that Conservancy and District have entered into grant agreements with Grant Funders that impose certain obligations on Conservancy and District respecting the use of such funds for this project. District will comply with all grant requirements imposed by Grant Funders in connection with such funding, so long as such requirements are not inconsistent with this Agreement, and will execute and deliver all documents as reasonably required by Grant Funders for such funding. District understands that Conservancy shall be unable to approve the Property Information until Grant Funders approve the Property Information.

**4. District's Covenants.** In consideration of Conservancy's disbursement of the Conservancy Funding in accordance with **Section 1** above, District hereby covenants and agrees as follows:

(a) **Notice of Unrecorded Agreement.** District shall record or cause to be recorded, concurrent with the Closing, a Notice of Unrecorded Agreement ("**Notice of Unrecorded Agreement**"), incorporating by reference this Agreement and giving public notice that District received funds under this Agreement in order to assist District in acquiring the Property and that, in consideration of receipt of the Conservancy Funding hereunder, District has agreed to the terms of this Agreement. The Notice of Unrecorded Agreement shall be substantially in the form of **Exhibit C** attached hereto and incorporated herein by reference.

(b) **Delivery of Closing Documents.** District shall provide to Conservancy, promptly following the Closing, a conformed copy of the recorded Grant Deed, Restrictive Covenant and Notice of Unrecorded Agreement, with all recording information identified thereon, as well as a copy of the final closing or settlement statement and the title insurance policy insuring District as the fee owner of the Property. District shall also provide Conservancy with copies of such other documents related to the Closing as requested by Conservancy.

(c) **Amendment or Termination of the Restrictive Covenant.** District shall not amend or modify the Restrictive Covenant without first obtaining Conservancy's written approval to such amendment or modification. District shall not terminate the Restrictive Covenant without first obtaining Conservancy's written approval.

(d) **Use of Property.** Following acquisition of the Property, District shall use, operate, manage and maintain the Property in perpetuity in a manner that complies with the Restrictive Covenant and this Agreement, and fulfills the Funding Purpose set forth in **Section 2** above.

(e) **Management Plan and Management Costs.** Conservancy and District shall jointly prepare a management plan for the Property ("**Preserve Management Plan**") that shall be consistent with the HCP/NCCP and shall be completed as soon as reasonably possible but no later than [REDACTED], 201[REDACTED] unless the Conservancy and District are able to close escrow on the Property prior to [REDACTED], 201[REDACTED], in which case the Preserve Management Plan will be completed no later than one year following the date of the close of escrow. Conservancy and District may extend this deadline by mutual agreement. Conservancy shall prepare and provide to District an initial draft of the Preserve Management Plan. District shall promptly review and comment on the initial draft Preserve Management Plan. Conservancy and District shall work together in good faith to produce a final Preserve Management Plan that is mutually acceptable to Conservancy and District. The Preserve Management Plan will include a monitoring plan for the Property and an estimated budget of all management and monitoring costs associated with implementation of the Preserve Management Plan ("**Management Costs**"). Conservancy and District intend to allocate Management Costs between the Parties consistent with the general principle such that Conservancy will pay for those Management Costs relating to management and monitoring of the Property's Covered Species and District will pay for those Management Costs relating to public access and public use of the Property. On or before final approval of the Preserve Management Plan, Conservancy and District will enter into a written agreement confirming the Parties' respective obligations to pay Management Costs, including the funding mechanisms for such payment which may be in the form of annual payments or an endowment. Conservancy shall pay all costs associated with preparation of the Preserve Management Plan. Following completion of the Preserve Management Plan, District shall use and manage the Property in accordance with the Preserve Management Plan.

(f) **Lease Revenues. [Include this Section if Property has Communication Tower, Wind, or Residential Lease Revenue]**

(i) **Leases.** The District will acquire the Property subject to those leases referenced in the Option Agreement (collectively, the "**Leases**"). Following the District's acquisition of the Property, the

District will enter into new leases with the existing tenants and be entitled to receive all the revenues due the lessor under the Leases (the “**Lease Revenues**”).

(ii) **Allocation of Lease Revenues.** All Lease Revenues received by District under the Leases shall be used by District as follows:

(A) To pay management costs associated with the management of any real property that is (i) identified in those certain grant agreements, Grant No. [Insert Grant Number], Grant Title: [Insert Grant Title], between USFWS and CDFW (the “**Federal Grant Agreements**”) and (ii) included in the ECCC HCP/NCCP preserve lands (collectively, the “**Lease-Funded Management Costs**”), which Lease-Funded Management Costs may include, without limitation, any combination of the following costs:

1. Personnel performing day to day oversight, management and protection of such properties (e.g. the cost of rangers, police, and fire personnel);
2. Fence repair, replacement and construction;
3. Maintaining roads and access facilities;
4. Control of invasive or exotic species;
5. Improvement of livestock watering facilities to prevent degradation of natural waters and wetlands;
6. Removal of debris & unnecessary structures, including buildings & unnecessary roads;
7. Other habitat enhancement activities;
8. Monitoring of habitat conditions and of HCP/NCCP covered species; and
9. Adaptive management activities guided by monitoring.

The Conservancy and District recognize that the Property (which includes District’s right to receive the Lease Revenues) was purchased with a combination of funds provided by the Conservancy and District; and/or

(B) To fund a non-wasting endowment (the “**Endowment**”) to provide funding for those Lease-Funded Management Costs incurred following the date the Leases are terminated; the Parties intend that District shall invest an agreed-upon amount of the Lease Revenues to generate annual interest sufficient to pay that portion of the Lease-Funded Management Costs covered by Lease Revenues according to a schedule agreed

to by Conservancy and District, pursuant to **Section 4(f)(ii)(A)** above (the “**Endowment Goal**”).

(iii) **Grazing Lease Revenues.** The Parties understand that, at some point in the future, District may enter into a grazing lease for the Property. The lease revenues received by District under such grazing lease will not be subject to the allocation of lease revenues provisions of **Section 4(f)(ii)** above and such grazing lease revenues may be spent in District’s sole discretion.

(iv) **Annual Budget and Annual Reporting.** On or before the beginning of each calendar year, District and Conservancy shall jointly prepare an annual written budget setting forth the total amount of Lease Revenues projected for collection by the District during the upcoming year, together with District’s proposed expenditures consistent with **Section 4(f)(ii)** above (the “**Annual Budget**”). Within thirty (60) days following the end of each calendar year, District shall deliver to Conservancy an accounting for the immediately preceding calendar year (the “**Annual Accounting**”) which shall set forth (A) the total amount of Lease Revenues collected during such calendar year; (B) how such Lease Revenues were actually expended by District during such year, and (C) the total amount of the Endowment, together with the projected amount of the Endowment Goal. The requirements set forth in this section may be modified and expressly superseded in the funding agreement contemplated under **Section 4(e)** above.

(g) **Future Wetland Restoration Projects.** Following District’s execution of this Agreement, Conservancy shall have the exclusive right to work with District to conduct, or cause to be conducted, wetland and/or habitat creation, restoration, enhancement, and/or development improvements, projects or activities on the Property to satisfy the requirements of the HCP/NCCP (“**Habitat Activities**”). Any Habitat Activities conducted, or caused to be conducted, on the Property by Conservancy shall (i) be paid for by Conservancy, provided that it is expected the District may provide some staff resources; (ii) require District’s prior reasonable approval with respect to design, location and phasing, and (iii) be conducted in accordance with a separate written agreement entered into by Conservancy and District providing for such projects, if and to the extent either Party to this agreement requires such agreements. The written agreement shall address Conservancy’s reimbursement for District’s costs and staff time where appropriate, in light of the type of project and the staff resources required of District. District understands that Conservancy may encounter urgent timing constraints to complete some Habitat Activities in order to comply with the HCP/NCCP. If Conservancy reasonably determines that District will not be able to meet such deadlines, Conservancy and District shall exercise their respective reasonable good faith efforts to enter into a written agreement on reasonable terms and conditions for Conservancy to step in and manage construction of the Habitat

Activities through timely completion in a manner substantially consistent with the District's previous approvals of such activities and the other written agreements entered into by the Parties respecting the Habitat Activities. Neither District nor any other third party shall conduct any Habitat Activities on the Property unless such party first obtains Conservancy's written reasonable approval of such Habitat Activities. Should District be required to mitigate project impacts for any portion of its project relating to public access/use of the Property, District shall be allowed to mitigate on the Property so long as said mitigation does not conflict or interfere with Conservancy's existing or planned Habitat Activities projects.

(h) **Access to the Property.** From and after the Effective Date and through the Closing, District shall use its reasonable best efforts to coordinate with Seller to provide Conservancy, and Conservancy's employees, agents and consultants, WCB and WCB's employees, agents and consultants access at reasonable times upon reasonable prior notice to the Property to conduct appropriate due diligence investigations and to conduct Habitat Activities. District shall also make available District's employees and agents to Conservancy, WCB and their respective employees, agents, and consultants to provide additional explanatory information and answer questions respecting the Property and to otherwise assist in Conservancy's and WCB's due diligence investigation of the Property. Following District's acquisition of the Property, District shall provide access to the Property to Conservancy and Conservancy's employees, agents and consultants, at reasonable times upon reasonable prior notice, to monitor District's compliance with the terms of this Agreement and to exercise any of Conservancy's rights hereunder.

(i) **Transfer.** District shall not assign, sell, transfer, exchange or otherwise convey all or any portion of the Property without obtaining the prior written approval of Conservancy, which approval shall not be unreasonably denied as long as the Property shall continue to be held and used only in a manner consistent with this Agreement, including the Funding Purpose.

(j) **Security.** District shall not use all or any portion of the Property as security for any debt without obtaining the prior written approval of Conservancy.

## 5. Funding Procedure

(a) **Escrow.** Conservancy shall deposit the Conservancy Funding directly into the escrow (the "**Escrow**") that has been opened to consummate District's purchase of the Property in accordance with the Option Agreement, at [Insert Name of Title Company], [Insert Title Company Address], Attention: [Insert Name of Escrow Officer], Escrow Number [Insert Escrow Number] ("**Escrow Company**"). The Conservancy Funding shall be released from the Escrow to Seller to pay the Purchase Price upon confirmation that the Grant Deed, Restrictive Covenant and Notice of Unrecorded Agreement have been recorded in

the Official Records (the “**Closing**”) provided, however, if USFWS or CDFW have not approved the Restrictive Covenant prior to the Closing (as defined below), District shall record the Restrictive Covenant in the Official Records, as approved by USFWS and CDFW, as soon as reasonably possible following such approval. The Closing shall occur, if at all, on [REDACTED], 201[REDACTED] (the “**Closing Date**”), unless otherwise mutually agreed by Conservancy and District in writing. If the Closing has not occurred on or before the Closing Date and Conservancy is not in default under this Agreement, Conservancy shall be entitled to terminate this Agreement by delivering written notice of termination to District, upon which the Parties shall have no further rights or obligations under this Agreement, including without limitation the obligation to fund the Conservancy Funding.

(b) **Closing and Escrow Costs and Expenses.** Conservancy shall not be responsible for paying any closing, escrow or title insurance costs, fees or expenses due in connection with District’s acquisition of the Property.

**6. Public Access.** Conservancy understands and acknowledges that property located in the vicinity of the Property has been identified in District’s current Master Plan as a potential regional park and that District’s mission incorporates both resource conservation and public access goals. Conservancy further recognizes that the HCP/NCCP permits public access and recreational uses on Preserves (as defined in the HCP/NCCP) provided such public access and recreational uses are conducted in a manner consistent with the species conservation goals and recreation provisions contained therein. Conservancy acknowledges that one of the reasons that the District is entering into this Agreement and acquiring the Property is specifically to provide public access and recreational uses on the Property. Consequently, Conservancy and District shall work collaboratively to identify and include in the Preserve Management Plan appropriate public access facilities and recreational uses for the Property that are consistent with protection of the conservation values of the Property and the HCP/NCCP and which will be developed jointly by Conservancy and District. All proposed public uses and recreational facilities for the Property shall be sited on the Property in locations that are consistent with the protection of the Property’s conservation values and will be subject to the prior approval of Conservancy, which approval shall not be withheld provided such uses and facilities do not impair the Property’s conservation values and are otherwise consistent with the HCP/NCCP.

**7. Cooperation.** From and after the Effective Date, Conservancy and District shall each use its respective good faith reasonable best efforts to cooperate with the other Party in exercising such Party’s rights under this Agreement, which shall include, without limitation, the Parties’ respective good faith reasonable best efforts to assist in satisfying the Conservancy Funding Conditions Precedent.

**8. Default and Remedies.**

(a) **Notice of Breach.** In the event of a breach by Conservancy or District of any of the terms, covenants or conditions of this Agreement or any

written agreement entered into by Conservancy or District respecting the allocation of Management Costs as required under **Section 4(e)**, the non-breaching party shall give written notice to the breaching party describing the breach (“**Notice**”), and the breaching party shall have thirty (30) days from the date of the Notice to cure the breach or, if the breach is not curable within such thirty (30) day period, to commence and diligently pursue such cure to completion.

(b) **Remedies.** If the breaching party fails to cure any breach within the cure period provided in **Section 8(a)** above, the breaching party shall be in default under this Agreement (“**Default**”). In the event of a Default under this Agreement, the non-breaching party shall have all remedies available at law or in equity.

(i) **Additional Conservancy Remedies.** In addition to the remedies available under **Section 8(b)** above, if the non-breaching party is Conservancy and the breaching party is District and Conservancy is not then in default under this Agreement, Conservancy may require District to convey its interest in the Property to Conservancy or to another public entity or nonprofit organization that is willing and financially able to assume all of the obligations and responsibilities of District hereunder, subject to receipt of any approvals required under any public funding grant agreements for the Property.

(ii) **Additional District Remedies.** In addition to the remedies available under **Section 8(b)** above, if the non-breaching party is District and the breaching party is Conservancy and District is not in default under this Agreement, District may require either Conservancy or another entity acceptable to Conservancy to accept a conveyance of District’s interest in the Property subject to receipt of any approvals required under any public funding grant agreements for the Property. Upon such conveyance, Conservancy or the other entity will assume any and all terms, covenants and conditions of the Agreement that were imposed upon District by the Agreement or any related documents. Upon transfer of the Property to Conservancy or another entity acceptable to Conservancy under this **Section 8(b)(ii)**, this Agreement shall terminate and neither party hereto shall have any further obligations hereunder.

**9. Injury or Destruction to a Habitat Activities Project.** District shall not be responsible for the unauthorized acts of third parties, and natural disasters such as fire, floods, storms, earthquakes or landslides and shall have no obligation to restore any Habitat Activities projects injured or destroyed due to such or similar causes; provided, that nothing in this section shall prevent Conservancy and District from reaching separate agreement to take such additional steps to restore such injury or destruction to the Habitat Activities projects that are mutually acceptable to Conservancy and District in each Party’s sole and absolute discretion.

**10. Public Announcements.** Other than when otherwise required by law, District shall consult with Conservancy prior to any public announcement or press release describing the District’s acquisition of the Property and specifically the Conservancy funding activities associated with the acquisition of the Property.

**11. Representations and Warranties.** The Parties hereby represent and warrant to each other that the execution, delivery and performance by such Party of this Agreement together with the transactions contemplated thereby have been duly authorized and approved by such Party. Upon execution and delivery by each Party, this Agreement shall constitute the legal, valid and binding obligations of such Party under applicable law, enforceable in accordance with their respective terms, subject only to bankruptcy, insolvency, reorganization, moratorium or similar laws at the time in effect affecting the enforceability of the rights of creditors generally and to the discretion of courts of applicable jurisdiction to enforce equitable remedies including, without limitation, specific performance and injunctive relief.

**12. Notices.** Any notice, demand, request, consent or approval that either Party desires or is required to give to the other Party under this Agreement shall be in writing and shall be sent to the following relevant address:

If to District:

East Bay Regional Park District  
 2950 Peralta Oaks Ct.  
 Oakland, CA 94605  
 Attention: Land Acquisition Manager  
 Facsimile: (510) 569-1417

If to Conservancy:

East Contra Costa County Habitat  
 Conservancy  
 30 Muir Road  
 Martinez, CA 94553  
 Attention: Executive Director  
 Facsimile: (925) 674-7250

Notices may be sent by any of the following means: (i) by delivery in person, (ii) by certified U.S. mail, return receipt requested, postage prepaid, (iii) by Federal Express or other reputable “overnight” delivery service, provided that next-business-day delivery is requested by the sender, or (iv) by facsimile transmission; provided that a hard copy of such notice shall have been deposited into the U.S. mail to the recipient on the same day as transmission. Notices delivered in person shall be deemed effective immediately upon receipt (or refusal of delivery or receipt). Notices sent by certified mail shall be deemed given on the date deposited with the U.S. Postal Service. Notices sent by Federal Express or other reputable “overnight” delivery service shall be deemed given on the date deposited with the delivery service. Notices sent by facsimile transmission shall be effective on the date of successful transmission. Either Party may, from time to time, by written notice to the other, designate a different address which shall be substituted for the one above specified.

**13. No Partnership.** Nothing in this Agreement shall be deemed to create a partnership between any combination of the parties hereto.

**14. Miscellaneous Provisions.**

(a) **Effective Date.** The Parties' rights and obligations set forth in this Agreement shall be effective (the "**Effective Date**") the first date upon which both Parties shall have executed this Agreement.

(b) **Counterparts.** This Agreement may be executed in one or more identical counterparts, each of which shall be deemed to be an original, but all of which together shall constitute but one and the same instrument.

(c) **Successors and Assigns.** This Agreement may not be assigned, in full or in part, by either Party without the prior written consent of the other Party. Subject to the foregoing provision, this Agreement shall inure to the benefit of and be binding upon the Parties to this Agreement and their respective successors and assigns.

(d) **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties relating to the agreements set forth herein and supersedes any and all prior written and oral understandings relating thereto. Any representations or modifications concerning this Agreement shall be of no force or effect, excepting a subsequent modification in writing signed by the Party to be charged.

(e) **Governing Law.** This Agreement shall be governed by, construed in accordance with, and interpreted under, the internal laws of the State of California.

(f) **Drafting.** Each of the Parties hereto acknowledge that such Party and its counsel have reviewed, revised (where it was deemed appropriate), and approved this Agreement, and that no rule of construction that ambiguities are to be resolved against the drafting Party shall be employed in the interpretation of this Agreement.

(g) **Invalidity.** If any provision of this Agreement or the application thereof to any person(s) or circumstance(s) shall to any extent be held to be invalid, illegal, or unenforceable in any respect by any court of competent jurisdiction, and provided that the essential agreement of the Parties to this Agreement is not materially altered as a result of such holding: (i) neither the remainder of this Agreement nor the application of such provision to any person(s) or circumstance(s), other than those as to whom or which it is held to be invalid or unenforceable, shall be affected thereby; (ii) this Agreement shall be construed as though such invalid, illegal or unenforceable provision had never been contained in this Agreement; and (iii) every provision of this Agreement

shall be valid and enforceable to the fullest extent permitted by law. If any provision is so stricken from this Agreement, the Parties agree to negotiate in good faith any modifications that may be required to effectuate the intent of this Agreement.

(h) **Performance and Waiver.** Time is of the essence in the performance of each of the obligations of the Parties under this Agreement, but no failure of a Party to this Agreement to insist upon the timely performance of any obligation by another Party shall constitute a waiver of the right to require performance of such obligation, or act as a waiver of the right to require the performance of any other obligation of such Party (or any other party).

(i) **Attorneys' Fees.** In the event of any litigation or arbitration between the Parties to this Agreement in connection with the interpretation of this Agreement, or the enforcement of any right or obligation under this Agreement, the Party prevailing in such litigation or arbitration shall be entitled to payment by the other Party of the court costs and attorneys' fees and expenses incurred by the prevailing Party in connection with such litigation or arbitration (whether incurred at the trial, appellate, or administrative level), in such amount as the court or administration body may judge reasonable, all of which may be incorporated into and be a part of any judgment or decision rendered in such litigation or arbitration.

IN WITNESS WHEREOF, the Parties hereby enter into this Agreement as of the Effective Date.

**DISTRICT:**

EAST BAY REGIONAL PARK  
DISTRICT, a California special district

Date: \_\_\_\_\_, 201█

By: \_\_\_\_\_  
Name: Robert E. Doyle  
Title: General Manager

**CONSERVANCY:**

EAST CONTRA COSTA COUNTY  
HABITAT CONSERVANCY, a joint  
exercise of powers agency

Date: \_\_\_\_\_, 201█

By: \_\_\_\_\_  
Name: Abigail Fateman  
Title: Interim Executive Director

**EXHIBIT A**

**Legal Description of the Property**

**EXHIBIT B**

**Form of Restrictive Covenant**

RECORDING REQUESTED BY AND )  
 WHEN RECORDED MAIL TO: )  
 )  
 East Bay Regional Park District )  
 Land Acquisition Department )  
 2950 Peralta Oaks Court )  
 Oakland, California 94605 )  
 Attention: Land Division )

APN

Space Above Line for Recorder's Use Only

Request is made that this document be recorded without fee pursuant to Government Code Section No 27383.

**COVENANT TO RESTRICT USE OF PROPERTY**

THIS COVENANT AND AGREEMENT has been executed as of [REDACTED], 2014 in favor of the UNITED STATES DEPARTMENT OF THE INTERIOR, acting by and through the U.S. Fish and Wildlife Service (“USFWS”), and the STATE OF CALIFORNIA, acting by and through its Department of Fish and Wildlife (“DFW”), by the EAST BAY REGIONAL PARK DISTRICT, a California special district (“District”).

**RECITALS**

- A. District is the sole owner in fee simple of certain real property containing approximately [REDACTED] acres, located in the County of Contra Costa, State of California, designated Assessor’s Parcel Number(s) [REDACTED] and more particularly described in Exhibit “A” attached hereto and incorporated herein by this reference (the “Property”).
- B. This Covenant is being executed, delivered, and recorded in the Official Records of Contra Costa County (“Official Records”) to satisfy certain requirements set forth in the following documents (collectively, the “HCP/NCCP Conservation Instruments”):
  - (i) East Contra Costa County Habitat Conservation Plan/ Natural Community Conservation Plan (“HCP/NCCP”), dated October 2006, prepared by the East Contra Costa Habitat Conservation Planning Association, and approved by the USFWS under Section 10 of the Federal Endangered Species Act of 1973, as amended (16 U.S.C. Section 1531 *et seq.*) (“FESA”) and by DFW under California Fish and Game Code Section 2835; and
  - (ii) Implementing Agreement for the East Contra Costa County Habitat Conservation Plan/ Natural Community Conservation Plan, by and between East Contra Costa County Habitat Conservancy, County of Contra Costa, City of Pittsburg, City of

Clayton, City of Oakley, City of Brentwood, Contra Costa County Flood Control and Water Conservation District, District, USFWS, and DFW (the “**Implementing Agreement**”); and

- (iii) The federal incidental take permit issued by USFWS to East Contra Costa County Habitat Conservancy, County of Contra Costa, City of Pittsburg, City of Clayton, City of Oakley, City of Brentwood, Contra Costa County Flood Control and Water Conservation District and District (collectively, the “**Permittees**”) for the HCP/NCCP pursuant to Section 10(a)(1)(B) of FESA, as it may be amended from time to time; and
  - (iv) The state Incidental Take Permit issued to Permittees for the HCP/NCCP pursuant to California Fish and Game Code Section 2835, as it may be amended from time to time.
- C. A management plan for the Property (the “**Preserve Management Plan**”), developed in accordance with the applicable requirements of the HCP/NCCP Conservation Instruments, may be revised from time to time in accordance with the HCP/NCCP Conservation Instruments. The District shall maintain in its offices a full and complete copy of the most current Preserve Management Plan.
- D. The Property possesses wildlife and habitat values, including open space and significant ecological and habitat values that benefit endangered, threatened, and other species (the “**Conservation Values**”). The Conservation Values include, but are not limited to, habitat suitable for many or all of the following Covered Species (as defined in the HCP/NCCP) (collectively, the “**Property’s Covered Species**”): Townsend’s western big-eared bat (*Corynorhinus townsendii townsendii*), San Joaquin kit fox (*Vulpes macrotus mutica*), tricolored blackbird (*Agelaius tricolor*), golden eagle (*Aquila chrysaetos*), western burrowing owl (*Athene cunicularia hypugaea*), Swainson’s Hawk (*Buteo swainsoni*), silvery legless lizard (*Anniella pulchra pulchra*), Alameda whipsnake (*Masticophis lateralis euryxanthus*), Giant garter snake (*Thamnopsis gigas*), western pond turtle (*Clemmys marmorata*), California tiger salamander (*Ambystoma californiense*), California red-legged frog (*Rana aurora draytonii*), foothill yellow-legged frog (*Rana boylei*), longhorn fairy shrimp (*Brachinecta longiantenna*), vernal pool fairy shrimp (*Brachinecta lynchi*), midvalley fairy shrimp (*Brachinecta mesovallensis*), vernal pool tadpole shrimp (*Lepidurus packardii*), Mount Diablo manzanita (*Arctostaphylos auriculata*), brittle scale (*Atriplex depressa*), San Joaquin spearscale (*Atriplex joanquiniana*), big tarplant (*Blepharizonia plumosa*), Mount Diablo fairy lantern (*Calochortus pulchellus*), recurved larkspur (*Delphinium recurvatum*), round-leaved filaree (*Erodium macrophyllum*), Diablo helianthella (*Helianthella castanea*), Brewer’s dwarf flax (*Hesperolinon breweri*), showy madia (*Madia radiata*), and adobe navarretia (*Navarretia nigelliformis* ssp. *nigelliformis*).

## AGREEMENTS

NOW, THEREFORE, in consideration of the above and mutual covenants, terms, conditions and restrictions contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and pursuant to the laws of the State of California, District hereby declares that the Property, and every part thereof or interest therein, is now held and shall hereafter, in perpetuity (subject to termination only pursuant to **Section 5** below), be held, managed, transferred, sold, leased, conveyed and occupied subject to the restrictions (collectively, the "**Restrictions**") set forth in the Preserve Management Plan and this Covenant. The Restrictions and this Covenant shall burden and run with the Property, and every part thereof or interest therein, and shall be binding on all persons or entities having or acquiring any right, title or interest in the Property, or any part thereof. The Restrictions and this Covenant are intended to be a covenant running with the land and shall only be terminated in accordance with **Section 5** below.

**1. Purposes.** The purposes of the Restrictions are to ensure that the existing wildlife and habitat values of the Property will be forever protected by preventing any use of the Property that would significantly impair or interfere with the Conservation Values (the "**Purposes**").

**2. Prohibited Uses.** Any activity on or use of the Property inconsistent with the Purposes of the Restrictions is prohibited. Without limiting the generality of the foregoing, District, and its personal representatives, successors, assigns, employees, agents, lessees, licensees and invitees, are expressly prohibited from doing or permitting any of the following uses and activities on the Property, except as required by or specifically allowed in the Preserve Management Plan:

- (a) Unseasonable watering; incompatible use of fertilizers, pesticides, biocides, herbicides or other agricultural chemicals; incompatible fire protection activities; and other activities and uses which may adversely affect the Conservation Values;
- (b) Planting, introduction or dispersal of non-native or exotic plant or animal species;
- (c) Removing, destroying or cutting of trees, shrubs or other vegetation, except for allowable agricultural uses and as required by law for fire breaks, maintenance of existing foot trails or roads or creation of foot trails and roads in accordance with the Preserve Management Plan, prevention and treatment of disease, or control of non-native or exotic plants;
- (d) Use of off-road vehicles and use of any other motorized vehicles, except on established roads, or for public safety, or for land management, monitoring, habitat enhancement or restoration, and public education in accordance with the Preserve Management Plan;

(e) Agricultural activity, except low-intensity uses such as grazing, cropland and pasture that have been determined by USFWS and DFW to be compatible with the Conservation Values and are performed in accordance with the Preserve Management Plan;

(f) Commercial or industrial uses;

(g) Any legal or de facto division, subdivision or partitioning of the Property or any fee transfer of less than the entire Property;

(h) Construction, reconstruction or placement of any building, billboard, or any other structure or improvement of any kind, except for structures and improvements necessary for public safety or for management, monitoring, habitat enhancement or restoration, or recreational uses consistent with the Conservation Values and described in the Preserve Management Plan;

(i) Depositing or accumulation of soil, trash, ashes, refuse, waste, bio-solids or any other materials, except as necessary for habitat enhancement or restoration in accordance with Preserve Management Plan;

(j) Filling, dumping, excavating, draining, dredging, mining, drilling, removing or exploring for or extraction of minerals, loam, soil, sands, gravel, rocks or other material on or below the surface of the Property, and granting or authorizing any surface entry for any of these purposes, except as necessary for management, monitoring, habitat enhancement or restoration, or minor earthmoving activities associated with the construction of structures and improvements in accordance with the Preserve Management Plan;

(k) Altering the surface or general topography of the Property, including building of roads, paving or otherwise covering the Property with concrete, asphalt, or any other impervious material, except as necessary for management, monitoring, habitat enhancement or restoration, or minor earthmoving activities associated with the construction of structures and improvements in accordance with the Preserve Management Plan;

(l) Manipulating, impounding or altering any natural water course, body of water or water circulation on the Property, and activities or uses detrimental to water quality, including but not limited to, degradation or pollution of any surface or sub-surface waters, except as necessary for management, monitoring, habitat enhancement or restoration, in accordance with the Preserve Management Plan; and

(m) Transferring or abandoning any water, mineral or air rights necessary to protect, sustain, maintain or restore the Conservation Values.

**3. District's Reserved Rights.** District reserves to itself, and to its personal representatives, successors, and assigns, all rights accruing from its ownership of the Property,

including the right to engage in or to permit or invite others, including the public, to engage in all uses of the Property that are not expressly prohibited or limited by the Restrictions and the terms and conditions of this Covenant, and are consistent with, the Purposes, including, but not limited to, the right to implement the Preserve Management Plan.

**4. Required Notice to Future Lessees and Licensees.** Any lease, license, easement, or other rental or use agreement subsequently entered into or made with respect to any portion of the Property, whether written or oral, shall contain an express provision informing the lessee, tenant, licensee or other contracting party of the Restrictions and this Covenant and shall require such lessee, tenant, licensee or other contracting party to comply with all such Restrictions and the terms of this Covenant throughout the term of such lease, license or rental or use agreement.

**5. Conveyances of Property.**

(a) District shall not convey a fee interest in the Property without first obtaining the written approval of DFW and USFWS and complying with this Section 5.

(b) Before conveying the fee interest in all or any portion of the Property to another governmental or quasi-governmental entity, District shall require the entity receiving the fee interest to, in writing, acknowledge, accept, assume, and agree to be bound by the terms and conditions of this Covenant and, following such conveyance, shall cause such writing and any additional instruments that District, DFW and USFWS mutually agree are necessary to continue the effectiveness of this Covenant following such transfer, to be recorded in the Official Records of Contra Costa County.

(c) Before District conveys the fee interest in all or any portion of the Property to any party other than a governmental or quasi-governmental entity, including but not limited to any individual, partnership, corporation, or trust, District shall first enter into, and record in the Official Records, a conservation easement that fully satisfies all the following requirements (the “**Conservation Easement**”): (i) the Conservation Easement will satisfy all of the requirements under California Civil Code Section 815 *et seq.* for creating a conservation easement interest thereunder; (ii) the Conservation Easement will be held by East Contra Costa County Habitat Conservancy, a joint exercise of powers authority, or another nonprofit conservation organization that (x) is qualified and authorized to hold a conservation easement under California Civil Code Section 815.3, (y) has the financial and stewardship capacity and experience to hold conservation easements of this nature, and (z) has been approved in advance by USFWS and DFW; (iii) the Conservation Easement will include terms and conditions consistent with the protection of the Conservation Values and the Purposes of the Restrictions; (iv) the Conservation Easement will include other terms and conditions substantially similar to those included in other conservation easements that have been recorded to satisfy the habitat conservation requirements set forth in the HCP/NCCP Conservation Instruments; and (v) the form of Conservation Easement shall be approved in advance of recordation by USFWS and DFW. Effective automatically upon recordation of a Conservation Easement covering all or any portion of the Property, the Restrictions and this Covenant

shall terminate with respect to the portion of the Property covered by such recorded Conservation Easement.

(d) [INCLUDE THIS PARAGRAPH (d) ONLY IF THE PROPERTY IS ADJACENT TO ROAD PROJECT COVERED BY THE HCP/NCCP] USFWS and DFW acknowledge that a portion of the Property abuts XXX Road and that widening XXX Road is a covered activity under the HCP/NCCP. If, upon the request of a public agency, District proposes to transfer to the public agency any interest in a portion of the Property needed for the purpose of widening the road, District shall notify USFWS and DFW, and USFWS and DFW shall approve the proposal consistent with the terms of the HCP/NCCP. Provisions (b) and (c) above shall not apply to such transfers. Following any such transfer, the portion of the Property that had an interest transferred, or was transferred in fee, will no longer be part of the Property and cannot be credited toward the requirements of the HCP/NCCP Conservation Instruments.

**6. Right of Inspection.** USFWS and DFW, through its employees and representatives, shall be entitled to enter upon the Property for the limited purpose of confirming compliance with the terms and conditions contained in this Covenant. Unless and until the District allows public access to the property, USFWS or DFW shall provide three (3) days written notice to District before any such entry, and District shall have the right, through District's employees and representatives, to accompany and observe such entry. Once District allows public access to the Property, such notice shall no longer be required but, if possible, District would appreciate such notice as a courtesy. This provision does not apply to DFW wardens, who may enter public lands at any time to investigate potential violations of State or federal law, such as illegal poaching.

**7. Remedies.** If USFWS or DFW determines there is a violation of the terms of this Covenant, written notice of such violation and a demand for corrective action sufficient to cure the violation shall be given to District, with a copy provided to USFWS and/or DFW, as appropriate. If District fails to cure the violation within fifteen (15) days after receipt of written notice and demand from USFWS or DFW, as applicable, or if the cure reasonably requires more than fifteen (15) days to complete and District fails to begin the cure within such fifteen (15) day period or fails to continue diligently to complete the cure, USFWS or DFW may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Covenant, to recover any damages to which USFWS or DFW may be entitled for such violation or for any injury to the Conservation Values, to enjoin the violation, *ex parte* as necessary, by temporary or permanent injunction without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies, or for other equitable relief, including, but not limited to, the restoration of the Property to the condition in which it existed prior to any such violation or injury.

If USFWS or DFW, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate damage to the Conservation Values, USFWS or DFW may pursue its remedies under this section without prior notice to District or without waiting for the period provided for cure to expire. Remedies described in this section shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

The rights of DFW and USFWS under this section apply equally to actual or threatened violations of the terms of this Covenant. The failure of DFW and USFWS to discover a violation or to take immediate legal action shall not bar DFW or USFWS from taking such action at a later time.

(a) **Costs of Enforcement.** Should proceedings be brought by DFW or USFWS to enforce or interpret any of the terms of this Covenant, the prevailing party in any such proceedings shall be entitled to recover from the non-prevailing party its actual costs and expenses, including, but not limited to, reasonable attorneys' and experts' fees and other costs of suit. If DFW or the USFWS is the prevailing party, such actual costs and expenses may include any habitat restoration costs incurred by DFW or USFWS to repair or restore harm to the Conservation Values that resulted from District's breach of the terms and conditions of this Covenant.

(b) **Enforcement Discretion.** Enforcement of the terms of this Covenant shall be at the respective discretion of USFWS and DFW, and any forbearance by either USFWS or DFW to exercise its rights under this Covenant in the event of any breach of any term of this Covenant shall not be deemed or construed to be a waiver of such term or of any subsequent breach of the same or any other term of this Covenant or of any rights under this Covenant. Likewise, no delay or omission by USFWS or DFW in the exercise of any right or remedy upon any breach shall impair such right or remedy or be construed as a waiver.

(c) **Acts Beyond District's Control.** Nothing contained in this Covenant shall be construed to, or shall entitle, USFWS or DFW to bring any action against District for any injury to or change in the Property resulting from (i) any natural cause beyond District's control, including, but not limited to, fire not caused by District, flood, storm, and earth movement, or any prudent action taken by District under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such causes; (ii) unauthorized acts of third parties; or (iii) acts by USFWS or DFW or any of their employees.

**8. Liberal Construction.** It is the intention of District that the Purposes of the Restrictions shall be carried out in perpetuity. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the Purposes that would render the provision valid shall be favored over any interpretation that would render it invalid.

**9. Notices.** Any notice, demand, request, consent, approval, or communication that District, USFWS or DFW desires or is required to give to the others must be in writing and be served personally or sent by recognized overnight courier that guarantees next-day delivery or by first class mail, postage fully prepaid, addressed as follows:

To District:	East Bay Regional Park District Land Acquisition Department 2950 Peralta Oaks Court Oakland, California 94605
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Attn: Land Acquisition Manager

To USFWS: United States Fish and Wildlife Service  
U.S. Fish and Wildlife Service  
2800 Cottage Way, Room W-2605  
Sacramento, California 95825-1846  
Attn: Field Supervisor

To DFW: California Department of Fish and Wildlife  
Region 3, Bay-Delta  
7329 Silverado Trail  
Napa, CA 94558  
Attn: Regional Manager

With a copy to:

Department of Fish and Wildlife  
Office of the General Counsel  
1416 Ninth Street, 12<sup>th</sup> Floor  
Sacramento, California 95814-2090  
Attn: General Counsel

or to such other address as any may designate for itself by written notice to the others. Notice shall be deemed effective upon delivery in the case of personal delivery or delivery by overnight courier or, in the case of delivery by first class mail, five (5) days after deposit into the United States mail.

**10. Amendment or Extinguishment.** Any instrument, and any provision in any instrument, that purports to amend, modify, or extinguish this Covenant shall be void, unless such instrument is executed by District, or District's successor in interest, and is approved in writing in advance by USFWS and DFW. Any such instrument must be consistent with the Purposes of the Restrictions, preserve the Conservation Values of the Property, and shall not affect the perpetual duration of this Covenant. Any amendment must be in writing, must refer to this Covenant by reference to its recordation data, must be approved by USFWS and DFW, and must be recorded in the Official Records of Contra Costa County.

**11. Controlling Law.** The interpretation and performance of this Covenant shall be governed by the laws of the State of California, disregarding the conflicts of law principles of such state, and by applicable Federal law.

**12. Severability.** If a court of competent jurisdiction voids or invalidates on its face any provision of this Covenant, such action shall not affect the remainder of this Covenant. If a court of competent jurisdiction voids or invalidates the application of any provision of this Covenant to a person or circumstance, such action shall not affect the application of the provision to other persons or circumstances.

IN WITNESS WHEREOF District has executed this Covenant on the day and year first above written.

**EAST BAY REGIONAL PARK DISTRICT,  
a California special district**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: General Manager

Approved as to form:

By: \_\_\_\_\_

District Counsel

State of California

Department of Fish and Wildlife

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

United States Fish and Wildlife Service

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBITS: Exhibit A - Legal Description of the Property**

STATE OF CALIFORNIA            )  
  )  
COUNTY OF \_\_\_\_\_        )        ss

On \_\_\_\_\_, 20\_\_, before me, \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) as \_\_\_\_\_ of East Bay Regional Park District, and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: \_\_\_\_\_

**EXHIBIT A**

**Legal Description of the Property**

**EXHIBIT C**

**Form of Notice of Unrecorded Agreement**

RECORDING REQUESTED BY, AND  
WHEN RECORDED, PLEASE MAIL TO:

East Contra Costa County  
Habitat Conservancy  
Attn: Executive Director  
30 Muir Road  
Martinez, CA 94553

APNs:

Space above for Recorder's Use

**NOTICE OF UNRECORDED AGREEMENT  
(WITH COVENANTS AFFECTING REAL PROPERTY)  
(Name of Property)**

THIS NOTICE OF UNRECORDED AGREEMENT (WITH COVENANTS AFFECTING REAL PROPERTY) (the "Memorandum") is made this [redacted], 201[redacted] (the "Notice Date"), by EAST CONTRA COSTA COUNTY HABITAT CONSERVANCY, a joint exercise of powers authority ("Conservancy"), and EAST BAY REGIONAL PARK DISTRICT, a California special district ("District"), to provide notice of an agreement between Conservancy and District affecting the real property described below.

This Notice is executed pursuant to that certain Funding Agreement, dated [redacted], 201[redacted], between Conservancy and District (the "Agreement"). The real property that is the subject of this Notice is comprised of [Insert Number of Acres] acres, located in Contra Costa County, California, and described on **Exhibit A** (the "Property"), pursuant to which Conservancy has provided certain funding to District in support of District's acquisition of the Property.

**TO ALL INTERESTED PARTIES, PLEASE BE ADVISED AS FOLLOWS:**

1. This Notice has been executed and recorded for the purpose of imparting notice of the Agreement and the respective rights and obligations of the parties thereto as set forth therein. All of the terms and conditions set forth in the Agreement are incorporated herein by this reference as if fully set forth herein. All capitalized terms used herein but not defined herein shall have the meanings set forth in the Agreement.

2. The Agreement includes certain rights and obligations of District relating to the Property, and certain restrictions on District's use of the Property, including, without limitation, the following:

(a) District will own, manage and use the Property for the purpose of protecting in perpetuity the Property's Covered Species in accordance with the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan, dated October 2006, prepared by the East Contra Costa Habitat Conservation Planning Association and approved by the United States Fish and Wildlife Service and the

California Department of Fish and Wildlife (“HCP/NCCP”) and the other terms and conditions set forth in the Agreement (the “Funding Purpose”).

(b) District will not assign, sell, transfer, exchange or otherwise convey all or any portion of the Property without obtaining the prior written approval of Conservancy, which approval shall not be unreasonably denied as long as the Property shall continue to be held and used only in a manner consistent with this Agreement, including the Funding Purpose.

(c) District shall not use all or any portion of the Property as security for any debt without obtaining the prior written approval of Conservancy.

3. This Notice is solely for the purpose of recording and in no way modifies the provisions of the Agreement. Conservancy and District each has rights, duties and obligations under the Agreement which are not set forth in this Notice. To the extent the terms of this Notice conflict with the Agreement, the terms of the Agreement shall govern and control.

4. A full and complete copy of the Agreement can be obtained from Conservancy or District at the following addresses:

East Contra Costa County Habitat Conservancy  
30 Muir Road  
Martinez, CA 94553

East Bay Regional Park District  
2950 Peralta Oaks Court  
Oakland, CA 94605

5. This Notice shall not be amended, modified, or removed except by a writing executed by Conservancy and District and recorded in the Official Records of Contra Costa County.

This Notice has been executed by Conservancy and District as of the Notice Date.

CONSERVANCY:

EAST CONTRA COSTA COUNTY HABITAT CONSERVANCY,  
a joint exercise of powers agency

By: \_\_\_\_\_  
Name: Abigail Fateman  
Title: Interim Executive Director  
Date: \_\_\_\_\_

DISTRICT:

EAST BAY REGIONAL PARK DISTRICT,  
a California special district

By: \_\_\_\_\_  
Name: Robert E. Doyle  
Title: General Manager  
Date: \_\_\_\_\_

STATE OF CALIFORNIA            )  
  )  
COUNTY OF \_\_\_\_\_        )        ss

On \_\_\_\_\_, 20 \_\_, before me, \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) as \_\_\_\_\_ of East Bay Regional Park District, and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: \_\_\_\_\_

**EXHIBIT A**

**Legal Description of the Property**

**CALIFORNIA WILDLIFE CONSERVATION BOARD  
SUBGRANT AGREEMENT FOR ACQUISITION OF FEE INTEREST**

**Cooperative Endangered Species Conservation Fund  
(Section 6 of the Federal Endangered Species Act) Grant Program**

**Subgrantee:** Full, Legal Name: East Contra Costa County Habitat Conservancy  
Address: 30 Muir Road  
Martinez, CA 94553

Attn: Abigail Fateman, Interim Executive Director

Phone: (925) 674-7820

Fax: (925) 674-7250

E-mail: abigail.fateman@dcd.cccounty.us

Federal Employer ID No./Taxpayer ID No.: 26-2547338

**Successor Subgrantee:** Name: East Bay Regional Park District  
Address: P.O. Box 5381  
Oakland, CA 94605-0381

Attn: Liz Musbach, Land Acquisition Manager

Phone: (510) 544-2610

Fax: (510) 569-1417

E-Mail: lmusbach@ebparks.org

Federal Employer ID No./Taxpayer ID No.: 94-60000-591

**Project Name:** [Insert Name of Property]

**Project Location:** Contra Costa County

**Section 6 Grant Agreement Number:** [Insert Section 6 Grant Agreement Number]

**WCB Subgrant Agreement Number:** [Insert WCB Subgrant Agreement Number]

**WCB Project ID:** [Insert WCB Project ID]

**WCB Subgrant Agreement Amount:** Not to exceed \$[Insert Numerical Amount]

**Notices to be delivered to:**

For Subgrantee: East Contra Costa County Habitat Conservancy  
30 Muir Road  
Martinez, CA 94553  
Attn: Executive Director

For Successor  
Subgrantee: East Bay Regional Park District  
P.O. Box 5381  
Oakland, CA 94605-0381  
Attn: Land Acquisition Manager

For WCB: Wildlife Conservation Board  
1807-13<sup>th</sup> Street, Suite 103  
Sacramento, CA 95811-7137  
Attn: Executive Director

With a copy to: Department of Fish and Wildlife  
Habitat Conservation Branch  
1416 Ninth Street, 12<sup>th</sup> Floor  
Sacramento, CA 95814  
Attn: Grant Coordinator

**1. BACKGROUND**

1.1. The U.S. Department of the Interior, Fish and Wildlife Service (“USFWS”) and the California Department of Fish and Wildlife (“CDFW”) have entered into a Cooperative Agreement for the benefit of endangered, threatened and rare fish, wildlife and plants which are resident in the State of California.

1.2. USFWS has approved the Application for Federal Assistance submitted by CDFW, [Insert Grant Number] (the “Federal Grant Application”), for Cooperative Endangered Species Conservation Fund (Section 6 of the Federal Endangered Species Act) Grant Program funding (“Federal Grant Funds”) to facilitate the acquisition of real property identified in the Federal Grant Application. The Notice of Federal Assistance Approval for [Insert Grant Number] (the “Federal Approval Notice”) which USFWS issued to CDFW specifies terms of acceptance of the Federal Grant Funds. CDFW and USFWS have entered into Grant Agreement for Grant No. [Insert Grant Number], Grant Title: [Insert Grant Title] (the “Federal Grant Agreement”) which specifies additional terms and conditions of the grant of Federal Grant Funds. The Federal Approval Notice and Federal Grant Agreement, including the terms and conditions set forth or incorporated directly or by reference in either or both of these instruments, are referred to in this Subgrant Agreement (“Agreement”) individually and collectively as the “Federal Assistance Requirements”.

1.3. Successor Subgrantee has entered into an agreement to purchase the Property described in Section 3.1 of this Agreement, which Property is a portion of the real property identified in the Federal Grant Application. Subgrantee has requested a subgrant of Federal Grant Funds from CDFW, acting through the Wildlife Conservation Board (“WCB”), to facilitate Successor Subgrantee’s acquisition of the Property (the “Acquisition”).

1.4. USFWS will permit CDFW, acting through WCB, to subgrant Federal Grant Funds to Subgrantee for the purpose of facilitating Successor Subgrantee’s Acquisition upon and subject to the Federal Assistance Requirements and the terms and conditions set forth in this Agreement.

1.5. USFWS requires that non-federal funds equal to fifty five percent (55%) of the total estimated program costs, as set forth in the Federal Grant Application, must be provided as a match for the Federal Grant Funds.

1.6. Concurrently with this Agreement, WCB, Subgrantee and Successor Subgrantee have entered into Grant Agreement No. [Insert Grant Agreement Number], pursuant to which WCB agrees to grant to Subgrantee a portion of the non-federal share of funding for the Acquisition.

## 2. SCOPE OF AGREEMENT

2.1. Pursuant to Chapter 4 of Division 2 (commencing with Section 1300) of the California Fish and Game Code, WCB hereby subgrants to Subgrantee Federal Grant Funds in a sum not to exceed [Insert Subgrant Funds Amount (spelled out)] Dollars (\$[Insert Numerical Amount]) (the “Subgrant Funds”), upon and subject to the terms and conditions of this Agreement.

## 3. PURPOSES OF SUBGRANT

3.1. WCB is entering into this Agreement, and the Subgrant Funds shall be used, only for the purpose of facilitating Successor Subgrantee’s purchase of fee title to approximately [Insert Numerical Acreage] acres of land known as the [Insert Name of Property] and designated Assessor’s Parcel Numbers [Insert Assessor’s Parcel Number(s)] located in the County of Contra Costa, California (the “Property”). The Property is more particularly described in **Exhibit A** attached to this Agreement.

3.2. Subgrantee and Successor Subgrantee covenant and agree that if WCB requests disbursement of the Subgrant Funds and Successor Subgrantee acquires the Property, the Property shall be held and used for [Edit Following Grant Purpose(s)] the purposes of preserving and protecting chaparral, oak woodland, oak savanna, grassland, wetland, seasonal wetland, riparian and other habitats crucial for numerous species covered by the East Contra Costa County Natural Community Conservation Plan/Habitat Conservation Plan (“ECCC NCCP/HCP”) as well as protecting critical

habitat connectivity between existing preserved lands (individually and collectively, the "Purposes of Subgrant").

WCB understands the ECCC NCCP/HCP provides for low-intensity recreational uses on ECCC NCCP/HCP preserve lands, subject to appropriate constraints to protect covered species and natural communities, and that Property acquired with Subgrant Funds or used as a match for Subgrant Funds will be subject to such recreational uses, to the extent consistent with the ECCC NCCP/HCP. Notwithstanding the above, all parties acknowledge that nothing in this Agreement shall be deemed to impair pre-existing contracts or property rights on the real property proposed for Acquisition.

#### 4. **CONDITIONS PRECEDENT TO SUBGRANT**

4.1. The obligation of WCB under this Agreement to request disbursement of the Subgrant Funds is conditioned upon and subject to the satisfaction of all of the following conditions precedent:

a. WCB shall have reviewed and approved all documents pertaining to Successor Subgrantee's acquisition of the Property, including but not limited to appraisals, preliminary title reports and items referenced therein, options, agreements for purchase and sale, escrow instructions, closing or settlement statements, and instruments of conveyance. Such review and approval by WCB shall not be unreasonably delayed or withheld. Subgrantee shall have removed or caused to be removed, or otherwise addressed to the satisfaction of WCB, any encumbrances or defects of title that WCB determines are inconsistent or could interfere with the Purposes of Subgrant. Any outstanding security interests or monetary encumbrances affecting the Property shall have been terminated or the holder of the encumbrance shall have irrevocably committed to remove its security interest or monetary encumbrance prior to the recording of the deed(s) conveying the Property to Successor Subgrantee.

b. Subgrantee shall have provided WCB with a letter or other written acknowledgment (which may be contained in the Successor Subgrantee's option or purchase agreement with the landowner) demonstrating that the landowner is a willing seller of the Property.

c. The purchase price of the Property shall not exceed its fair market value as established by an appraisal that is conducted by an appraiser who is licensed pursuant to Part 3 (commencing with Section 11300) of Division 4 of the California Business and Professions Code. The appraisal shall have been prepared pursuant to the Uniform Appraisal Standards for Federal Land Acquisitions ("UASFLA") and the Uniform Standards of Professional Appraisal Practice ("USPAP"), and approved by the California Department of General Services ("DGS Review"). The

appraisal and DGS Review shall also have been submitted to and approved in writing by USFWS. The appraisal shall become part of the project file maintained by WCB and shall be retained for no less than three years from the date WCB requests disbursement of the Subgrant Funds from the federal Payment Management System.

d. Subgrantee and Successor Subgrantee shall have provided WCB with written certification that the Acquisition is not intended, and shall not serve, to satisfy any local, State or federal regulatory requirement (e.g., mitigation for any local, State or federal permit), including but not limited to complying with a biological opinion under Section 7 of the Endangered Species Act of 1973, 16 U.S.C. Section 1361 *et seq.*, as amended (“ESA”), or fulfilling commitments of a Habitat Conservation Plan under Section 10 of the ESA (the “Certification”). WCB understands that, following acquisition by Successor Subgrantee, the Property will be preserved and managed in accordance with and will fulfill certain commitments under the ECCC NCCP/HCP, to the extent provided for in the Federal Grant Application and the Federal Grant Agreement. The Certification shall be attached to this Agreement as **Exhibit B**.

e. Subgrantee shall have provided WCB with a written commitment by Subgrantee and Successor Subgrantee for management of the Property in perpetuity consistent with the Purposes of Subgrant and according to the provisions of the ECCC NCCP/HCP for managing preserved lands in perpetuity and for funding such management, including but not limited to Conservation Measure 1.2, “Prepare and Implement Preserve Management Plans for Natural Habitat Lands.” This commitment shall be attached to this Agreement as **Exhibit C**.

f. Subgrantee shall have provided WCB with assurances and certifications of compliance with federal requirements (*i.e.*, Standard Form 424-D available at <http://training.fws.gov/fedaid/toolkit/toolkit.pdf>) by Subgrantee and Successor Subgrantee. Upon execution by Subgrantee and Successor Subgrantee, these assurances and certifications shall be attached to this Agreement as **Exhibit D**.

g. WCB shall have reviewed and approved a certified resolution or other appropriate action of the governing board or governing body of each of Subgrantee and Successor Subgrantee, authorizing the execution and performance of this Agreement and the acquisition of the Property by Successor Subgrantee. Upon approval by WCB the authorizing resolution or other action shall be attached to this Agreement as **Exhibit E**.

h. WCB shall be ready, willing and able to request payment of the Subgrant Funds from the federal Payment Management System for deposit with the State Treasurer’s Office.

i. WCB shall be ready, willing and able to request disbursement of the Subgrant Funds from the State Treasury for deposit into an escrow account designated by Subgrantee that has been established specifically for the purpose of the Acquisition (the “Escrow”).

j. Subgrantee shall have deposited, or caused to be deposited, into the Escrow all funds beyond those granted under this Agreement that are needed for Successor Subgrantee to complete the Acquisition.

k. WCB shall have confirmed that the non-Federal share of funding required for the Acquisition has been provided.

**5. DISBURSEMENT PROCEDURE**

5.1. Upon satisfaction of all the Conditions Precedent to Subgrant set forth in Section 4.1 a – g, j and k, above, and subject to approval of the acceptance of the Subgrant Funds and the subgrant by the Wildlife Conservation Board at a duly noticed public meeting, Subgrantee shall send a letter to WCB (the “Disbursement Request”), asking it to request disbursement of the Subgrant Funds from (a) the federal Payment Management System for deposit with the State Treasurer’s Office and following such deposit, (b) the State Treasury for deposit into Escrow. The Disbursement Request shall be signed by an authorized representative of Subgrantee and shall contain all of the following:

- a. Name and address of Subgrantee;
- b. Project Name and Number of Agreement;
- c. Dollar amount and purpose of disbursement;
- d. Name, address and telephone number of the title company or escrow holder, and the account number of the Escrow to which the Subgrant Funds will be disbursed; and
- e. Certifications by Subgrantee and Successor Subgrantee that all funds (exclusive of the Subgrant Funds to be provided under this Agreement) needed to complete the Acquisition have been secured and have been or will be deposited to Escrow at or about the same date as the requested Subgrant Funds.

5.2. After receipt of a complete and proper Disbursement Request, WCB will promptly and timely (estimated to be 45 working days from the date the WCB receives the Disbursement Request) request payment from the federal Payment Management System to the State Treasurer’s Office of an amount not to exceed [Insert Amount (spelled out)] Dollars (\$[Insert Numerical Amount]) for deposit into the State Treasury.

After such deposit, WCB will promptly and timely request payment of the same amount from the State Treasury for deposit into Escrow.

## **6. SUBGRANTEE'S AND SUCCESSOR SUBGRANTEE'S COVENANTS**

6.1. In consideration of the subgrant of the Subgrant Funds, Subgrantee and Successor Subgrantee hereby covenant and agree as follows:

a. The Subgrant Funds shall be used as purchase money only, which excludes escrow and title fees and any other fees and costs incurred to accomplish the transaction and the conveyance and acquisition of the Property.

b. The Property shall be held and used only in a manner that is consistent with this Agreement, including the "Purposes of Subgrant" set forth in Section 3.2.

c. The Property shall be set aside in perpetuity for the purposes of conservation, including the Purposes of Subgrant.

d. Subgrantee and Successor Subgrantee shall comply with the terms and conditions of the award of Federal Grant Funds to CDFW, to the extent such terms and conditions are applicable to Subgrantee, Successor Subgrantee, the Subgrant Funds or the Property. Such terms and conditions are contained in the Federal Assistance Requirements.

e. Subgrantee and Successor Subgrantee shall recognize the cooperative nature of the Acquisition and shall provide credit to WCB, CDFW, USFWS, and any other contributor on signs, demonstrations, promotional materials, advertisements, publications or exhibits prepared or approved by Subgrantee and/or Successor Subgrantee which reference the Acquisition. Subject to the mutual agreement of WCB and Subgrantee regarding text, design and location, Subgrantee shall, or shall cause Successor Subgrantee to, post sign(s) on the Property to indicate the participation of WCB, CDFW and USFWS in Successor Subgrantee's purchase of the Property; *provided however*, that the sign(s) shall display the logo of WCB, as shown on **Exhibit F**.

f. The Property (including any portion of it or any interest in it) shall not be sold, transferred, exchanged, or otherwise conveyed without the written approval of the State of California (the "State"), acting through the Executive Director of WCB, or its successor, and USFWS (to the extent required pursuant to the Federal Assistance Requirements). The State shall not unreasonably withhold its approval as long as the Property shall continue to be held and used only in a manner consistent with this Agreement, including but not limited to Sections 6.1 (b) and (c), and each successor-in-interest assumes and agrees in a writing reasonably acceptable to the State to be bound by the terms, covenants and conditions of this Agreement.

g. The Property (including any portion of it or interest in it) may not be used as security for any debt without the written approval of the State, acting through the Executive Director of WCB, or its successor, and USFWS (to the extent required pursuant to the Federal Assistance Requirements).

h. Subgrantee shall record or cause to be recorded, concurrently with close of escrow for the purchase of the Property, a Notice of Unrecorded Agreement to Subgrant (the "Notice"), incorporating by reference this Agreement and giving public notice that Subgrantee received funds under this Agreement in order to assist Successor Subgrantee in acquiring the Property and that, in consideration for the receipt of the Subgrant Funds, Subgrantee and Successor Subgrantee have agreed to the terms of this Agreement. The Notice shall be in the form of **Exhibit G**.

i. Subgrantee shall cause Successor Subgrantee to provide to WCB, promptly following the close of escrow, a conformed copy of the recorded deed(s) and Notice, with all recording information set forth thereon, as well as a copy of the final Escrow closing or settlement statement and the title insurance policy insuring Successor Subgrantee as the owner of fee simple title to the Property. Subgrantee shall also cause Successor Subgrantee to provide copies of such other documents related to the closing of the Acquisition as requested by WCB. These documents shall become part of the project file maintained by WCB. Upon receipt of the above documents, WCB will provide USFWS with a copy of all documents for their files.

j. At the request of WCB, not less than once in any period of three calendar years, Subgrantee and Successor Subgrantee shall allow designated staff or representatives of WCB, CDFW and USFWS to access the Property to assess compliance with the terms, covenants, and conditions of this Agreement. *Provided, however*, that if more frequent access is necessary to comply with applicable federal requirements (including, but not limited to, 50 C.F.R. Section 81.13) then designated staff or representatives of WCB, CDFW and USFWS shall be allowed access to the Property at such intervals as WCB, CDFW or USFWS considers appropriate to meet federal requirements to which it is subject.

k. Subgrantee agrees to ensure that the terms and conditions of this Agreement shall be taken into account when calculating the Baseline/Business As Usual of the Property for purposes of establishing carbon credits or other emissions offsets proposed to be authorized, created, sold, exchanged or transferred. Subgrantee agrees to notify WCB prior to any such proposed establishment.

l. **[Insert this Section if Applicable]** The Property will be acquired by Successor Subgrantee subject to one or a combination of residential leases that

have been approved by WCB in accordance with the terms of this Agreement (collectively, the "Leases"). Following Successor Subgrantee's acquisition of the Property, Successor Subgrantee will be entitled to receive the lease revenues due under such Leases (collectively, the "Lease Revenues"). All Lease Revenues received by Successor Subgrantee shall be used by Successor Subgrantee as follows:

(i) To pay management costs associated with the management of any real property that is (1) identified in the Federal Grant Agreement, and (2) included in the ECCC NCCP/HCP preserve lands (collectively, the "Management Costs"), which Management Costs may include, without limitation, any combination of the following costs:

- (A) Personnel performing day to day oversight, management and protection of such properties (e.g. the cost of rangers, police, and fire personnel);
- (B) Fence repair, replacement and construction;
- (C) Maintaining roads and access facilities;
- (D) Control of invasive or exotic species;
- (E) Improvement of livestock watering facilities to prevent degradation of natural waters and wetlands;
- (F) Removal of debris & unnecessary structures, including buildings & unnecessary roads;
- (G) Other habitat enhancement activities;
- (H) Monitoring of habitat conditions and of ECCC HCP/NCCP covered species; and
- (I) Adaptive management activities guided by monitoring;

and/or

(ii) To fund a non-wasting endowment that will provide funding for those Management Costs incurred following the date(s) Lease Revenues will be received and available to cover such costs.

The provisions of this Section 6.1.k of this Agreement only apply to Lease Revenues received under the Leases, which expressly include residential leases, and do not apply to lease revenues, if any, received under any grazing leases or other types of leases.

## **7. BREACH AND DEFAULT**

7.1. In the event of a breach of any of the terms, covenants or conditions of this Agreement, WCB shall give written notice to Subgrantee and Successor Subgrantee, describing the breach. Notice shall be deemed given when personally delivered or deposited in the United States Mail, postage prepaid, or with a reliable over-night courier, addressed to Subgrantee and Successor Subgrantee at their respective addresses for notices set forth at the beginning of this Agreement (or such

changed address of which Subgrantee or Successor Subgrantee has notified WCB in writing pursuant to this Agreement).

7.2. If Subgrantee or Successor Subgrantee do not cure the breach within 90 days of the date a notice of breach is given or, if the breach is not curable within said 90-day period, Subgrantee or Successor Subgrantee do not commence the cure within the 90-day period and diligently pursue it to completion, then Subgrantee and Successor Subgrantee shall be in default ("Default") under this Agreement.

7.3. Subgrantee and Successor Subgrantee shall also be in Default under this Agreement upon the discovery that information given to WCB by or on behalf of Subgrantee or Successor Subgrantee under or in connection with obtaining this Agreement was materially false or misleading. Notice of a Default under this Section 7.3 shall be given in accordance with Section 7.1.

## **8. REMEDIES**

In the event of a Default under this Agreement, in addition to any and all remedies available at law or in equity, WCB shall have the following remedies:

8.1. WCB may seek specific performance of this Agreement. Subgrantee and Successor Subgrantee agree that payment by Subgrantee and/or Successor Subgrantee to WCB of an amount equal to the Subgrant Funds disbursed under this Agreement would be inadequate compensation for any Default because the benefit to be derived from full compliance with the terms of this Agreement is preserving and protecting chaparral, oak woodland, oak savanna, grassland, wetland, seasonal wetland, riparian and other habitats crucial for numerous species covered by the ECCC NCCP/HCP as well as protecting critical habitat connectivity between existing preserved lands and because such benefit exceeds to an immeasurable and unascertainable extent the amount of money furnished by way of Subgrant Funds under this Agreement.

8.2. WCB may require Subgrantee to cause Successor Subgrantee to convey a conservation easement over the Property in favor of the State or, at the election of WCB, another entity or organization authorized by California law to acquire and hold conservation easements. Furthermore, WCB may also require Subgrantee to pay, or cause Successor Subgrantee to pay, a sum to WCB which, when combined with the fair market value of the conservation easement, equals the amount of Subgrant Funds provided by this Agreement, together with interest compounded semi-annually starting from the date of default, at a rate equivalent to the higher of (a) that which is being earned at the time of Default on deposits in the State of California's Pooled Money Investment Account or (b) the applicable rate of interest under the Federal Assistance Requirements. The conservation easement shall be for the purposes of preserving and protecting chaparral, oak woodland, oak savanna, grassland, wetland, seasonal wetland, riparian and other habitats crucial for numerous species covered by the ECCC NCCP/HCP as well as protecting critical habitat connectivity between existing preserved lands. The value of the conservation easement shall be determined by an appraisal that

is conducted by an appraiser who is licensed pursuant to Part 3 (commencing with Section 11300) of Division 4 of the Business and Professions Code and acceptable to WCB. The appraisal shall be prepared pursuant to UASFLA and USPAP and approved by DGS.

8.3. Intentionally Left Blank.

8.4. Despite the contrary provisions of Article 7 of this Agreement, if WCB determines that circumstances require immediate action to prevent or mitigate interference with the Purposes of Subgrant or other irreparable harm arising from a breach or threatened breach of this Agreement, then WCB may pursue its remedies without waiting for the period provided for cure to expire.

8.5. CDFW, as the grantee under the Federal Grant Agreement, shall be an express third-party beneficiary of this Agreement and shall have the same rights and remedies as WCB in the event of a breach or Default.

**9. NONPROFIT ORGANIZATION SUBGRANTEE**

9.1. If the existence of Successor Subgrantee is terminated for any reason, title to all interest in the Property acquired with Subgrant Funds shall immediately vest in the State. However, prior to that termination, upon approval of the State, acting through the Executive Director of WCB or its successor, another public agency or nonprofit organization may receive title to all or a portion of that interest in the Property by recording its acceptance of title in writing. Any deed or other instrument of conveyance whereby the Property or any interest in it is being acquired by a nonprofit organization pursuant to this Section 9.1 shall be recorded and shall set forth the executory interest or right of entry on the part of the State.

**10. TERM**

10.1. This Agreement shall be deemed executed and effective when signed by an authorized representative of each party and received in the respective offices of Subgrantee, Successor Subgrantee and WCB, together with the certifications, commitment and resolution described in Section 4.1 (d) – (g) (the “Effective Date”). Subgrantee, Successor Subgrantee and WCB shall each sign five original counterparts of this Agreement. Subgrantee and Successor Subgrantee shall each receive one completely executed original and WCB shall receive three completely executed originals.

10.2. The term of this Agreement will commence on the Effective Date and, unless previously terminated as provided in Section 10.3, will expire on [REDACTED], 201[REDACTED], if escrow has not closed by that date.

10.3. Prior to Successor Subgrantee’s close of escrow for acquisition of the Property, any party may terminate this Agreement for any reason or for no reason, by

providing the other parties with not less than 15 days' written notice of such termination. Notice shall be given in the same manner as specified in Section 7.1. If this Agreement is terminated after the deposit of the Subgrant Funds into Escrow but before close of escrow for Successor Subgrantee's acquisition of the Property, Subgrantee shall (or shall cause Successor Subgrantee to) cause the escrow holder to immediately return all Subgrant Funds to (or as instructed by) WCB and Subgrantee shall bear all costs and expenses of such termination.

10.4. In the event this Agreement is terminated in accordance with its terms, no party shall have any rights nor remedies against the other parties except as provided herein.

10.5. The provisions of this Agreement that are not fully performed as of the close of escrow, including but not limited to Sections 3 (Purposes of Subgrant), 6 (Subgrantee's Covenants), 7 (Breach and Default) and 8 (Remedies) shall survive the close of escrow for Successor Subgrantee's acquisition of the Property and remain in full force and effect.

## **11. LIABILITY, MODIFICATIONS, INTERPRETATION**

11.1. Subgrantee and Successor Subgrantee shall indemnify, protect and hold harmless WCB, CDFW, the State of California, and their respective members, directors, officers, agents, and employees (each an "Indemnified Party"), from and against any and all claims, demands, damages, liabilities, losses, costs (including attorneys' fees) and expenses (collectively, "Claims") arising out of, connected with, or incident to this Agreement or the acquisition, ownership, use, management, operation or maintenance of the Property, except that neither Subgrantee nor Successor Subgrantee shall have any obligation to indemnify or hold harmless an Indemnified Party for Claims caused by the negligent or wrongful act of that Indemnified Party.

11.2. This Agreement may be modified only by written amendment signed by WCB, Subgrantee and Successor Subgrantee. No prior or contemporaneous oral understanding or agreement not incorporated in this Agreement shall be binding on either of the parties.

11.3. All references herein to "Subgrantee" are intended to refer to Subgrantee or its designee, successor or assignee as may be approved by WCB (including, upon its acquisition of the Property, Successor Subgrantee).

11.4. If any provision of this Agreement or the application thereof to any person or circumstance is held to be invalid or unenforceable, that shall not affect any other provision of this Agreement or applications of the Agreement that can be given effect without the invalid provision or application and to this end the provisions of this Agreement are severable.

11.5. Subgrantee, Successor Subgrantee, and their officers, directors, employees, agents and representatives, is each acting in an independent capacity in entering into and carrying out this Agreement, and not as a partner, member, director, officer, agent, employee or representative of WCB, CDFW or the State of California.

11.6. This Agreement is not assignable or transferable by Subgrantee or Successor Subgrantee, either in whole or in part, except in connection with a transfer of the Property approved by WCB under Section 6.1 (f) of this Agreement.

11.7. Any costs incurred by WCB or CDFW, where it is the prevailing party, in enforcing the terms of this Agreement against Subgrantee, including but not limited to costs of suit, attorneys' and experts' fees, at trial and on appeal, and costs of enforcing any judgment, shall be borne by Subgrantee.

11.8. Enforcement of the terms of this Agreement by WCB or CDFW shall be at its discretion, and any forbearance by WCB or CDFW to exercise its rights under this Agreement shall not be deemed or construed to be a waiver of such term or of any subsequent breach of the same or any other term of this Agreement or any of the rights of WCB or CDFW under it.

11.9. WCB will notify Subgrantee and Successor Subgrantee as promptly as possible following its receipt of any request under the California Public Records Act (Government Code Section 6250 *et seq.*) for information related to the Acquisition.

## **12. CONDEMNATION**

12.1. If all or any part of the Property is taken by exercise of the power of eminent domain, or acquired by purchase in lieu of condemnation, WCB, Subgrantee and Successor Subgrantee shall act jointly to recover from the condemning authority the full value of the Property so taken or purchased, and all direct or incidental damages resulting therefrom. WCB shall be entitled to the share of the Award (as defined below) which equals the ratio of the Subgrant Funds to the total purchase price Successor Subgrantee paid to acquire the Property (e.g., if Successor Subgrantee paid a purchase price of \$2 million and the amount of Subgrant Funds was \$750,000, then WCB would be entitled to 37.5% of the Award). For purposes of this Agreement, the "Award" shall mean all compensation awarded, paid or received on account of the Property so taken or purchased, and all direct or incidental damages resulting from the taking or purchase, less all out-of-pocket expenses reasonably incurred by Successor Subgrantee in connection with the taking or purchase.

## **13. AUDIT**

13.1. Subgrantee and Successor Subgrantor shall each maintain complete and accurate records of its actual project costs, in accordance with generally accepted accounting principles and practices, and shall retain said records for at least four years after the date the Subgrant Funds are deposited into Escrow. During such time,

Subgrantee shall make said records available (or cause them to be made available) to the State of California for inspection and audit purposes during normal business hours. Expenditures not documented, and expenditures not allowed under this Agreement or otherwise authorized in writing by WCB shall be borne by Subgrantee. Except to the extent the Federal Assistance Requirements (including, but not limited to, 50 C.F.R. Section 81.15) provide otherwise, the audit shall be confined to those matters connected with this Agreement, including but not limited to administration and overhead costs.

#### **14. UNION ORGANIZING**

14.1. Subgrantee and Successor Subgrantee hereby acknowledge the applicability of Government Code Sections 16645 through 16649 to this Agreement and certifies that:

- a. No state funds (as defined in Government Code Section 16645) disbursed by this subgrant will be used to assist, promote or deter union organizing;
- b. Subgrantee and Successor Subgrantee shall account for state funds disbursed for a specific expenditure by this subgrant, to show those funds were allocated to that expenditure;
- c. Subgrantee and Successor Subgrantee shall, where funds are not designated as described in Section 14.1(b) above, allocate, on a pro-rata basis, all disbursements that support the subgrant program; and
- d. If Subgrantee or Successor Subgrantee makes expenditures to assist, promote or deter union organizing, such party will maintain records sufficient to show that no state funds were used for those expenditures, and that such party shall provide those records to the Attorney General upon request.

#### **15. NON-DISCRIMINATION**

15.1. During the performance of this Agreement, Subgrantee and Successor Subgrantee are subject to all Federal and State laws prohibiting discrimination including but not limited to Title VI of the Civil Rights Act of 1964 (42 U.S.C. Section 2000d *et seq.*), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Section 794), Title II of the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12131 *et seq.*), the Age Discrimination Act of 1975 (42 U.S.C. Section 6101 *et seq.*), the Fair Employment and Housing Act (Government Code Section 12900 (a – f) *et seq.*), and applicable regulations (California Code of Regulations, Title 2, Section 7285 *et seq.*). Subgrantee and Successor Subgrantee shall not unlawfully discriminate against, harass, or allow harassment against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical disability (including HIV and AIDS),

mental disability, medical condition, marital status, age (over 40), sex, sexual orientation, or use of family-care leave, medical-care leave, or pregnancy-disability leave. Subgrantee and Successor Subgrantee shall take affirmative action to ensure that the evaluation and treatment of its employees and applicants for employment are free of such discrimination and harassment. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Subgrantee and Successor Subgrantee shall comply with the regulations of the Fair Employment and Housing Commission regarding Contractor Nondiscrimination and Compliance (Chapter 5 of Division 4 of Title 2 of the California Code of Regulations), which are incorporated by reference into this Agreement. Subgrantee and Successor Subgrantee shall each give written notice of its obligations under this non-discrimination clause to labor organizations with which Subgrantee or Successor Subgrantee has a collective bargaining or other agreement, and shall post in conspicuous places available to employees and applicants for employment, notice setting forth the provisions of this section. Subgrantee and Successor Subgrantee shall also include the nondiscrimination and compliance provisions of this Agreement in all contracts related to the Acquisition.

## 16. **DRUG-FREE WORKPLACE REQUIREMENTS**

16.1. Subgrantee and Successor Subgrantee each hereby certify that it shall provide a drug-free workplace in compliance with the Drug-Free Workplace Act of 1990 (Government Code Section 8350 *et seq.*) by taking all of the following actions:

- a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the workplace and specifying the actions to be taken against employees for violations;
- b. Establishing a drug-free awareness program to inform employees about all of the following:
  - (i) The dangers of drug abuse in the workplace;
  - (ii) The organization's policy of maintaining a drug-free workplace;
  - (iii) Any available drug counseling, rehabilitation, and employee assistance programs; and
  - (iv) The penalties that may be imposed upon employees for drug abuse violations.
- c. Requiring that every employee engaged in the performance of this Agreement:
  - (i) Be given a copy of the organization's drug-free workplace policy statement; and

(ii) Must agree to abide by the terms of the organization's statement as a condition of employment in connection with this Agreement.

Failure to comply with the above requirements may result in suspension of payments under, or termination of, this Agreement, or both. Subgrantee and Successor Subgrantee may be ineligible for award of any future grants or subgrants from the State if the State determines that Subgrantee and Successor Subgrantee have made a false certification; or violates the certification by failing to carry out the requirements set forth above.

## **17. EXHIBITS**

Each of the Exhibits referenced in this Agreement is incorporated by reference as though set forth in full herein. The following Exhibits are attached to this Agreement:

- Exhibit A** – Property Description and List of Assessor's Parcel Numbers
- Exhibit B** – Certification of No Regulatory Requirements
- Exhibit C** – Commitment for Management and Funding
- Exhibit D** – Assurances and Certifications
- Exhibit E** – Certified Resolution or Other Action of Governing Body of Subgrantee
- Exhibit F** – WCB's Logo
- Exhibit G** – Form of Notice of Unrecorded Agreement to Subgrant

**18. AUTHORIZATION**

The signature of the Executive Director certifies that at the Board meeting held on [REDACTED], 201[REDACTED], the Wildlife Conservation Board authorized the award of a subgrant to Subgrantee as provided in this Agreement.

IN WITNESS WHEREOF, this Subgrant Agreement is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2014, in the State of California, by and between the Wildlife Conservation Board and the East Contra Costa County Habitat Conservancy, the East Bay Regional Park District, each of which does hereby agree to the terms and conditions referenced on pages 1 through 17, along with Exhibits A through G, of this Agreement.

**STATE OF CALIFORNIA  
WILDLIFE CONSERVATION BOARD**

**SUBGRANTEE  
EAST CONTRA COSTA COUNTY HABITAT  
CONSERVANCY**

By: \_\_\_\_\_  
John P. Donnelly

By: \_\_\_\_\_  
Abigail Fateman

Title: Executive Director

Title: Interim Executive Director

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**SUCCESSOR SUBGRANTEE  
EAST BAY REGIONAL PARK DISTRICT**

By: \_\_\_\_\_  
Robert E. Doyle

Title: General Manager

Date: \_\_\_\_\_

**EXHIBIT A**

**Legal Description**

**EXHIBIT B**

**Certification of No Regulatory Requirements**

The undersigned are the Executive Director of the East Contra Costa County Habitat Conservancy and the General Manager of the East Bay Regional Park District, the Subgrantee and Successor Subgrantee, respectively, under the California Wildlife Conservation Board Subgrant Agreement for Acquisition of Fee Interest (Agreement) of which this **Exhibit B** forms a part. Subgrantee and Successor Subgrantee hereby certifies to the Wildlife Conservation Board (WCB) as follows:

Subgrantee’s acquisition of the Property (as defined in the Agreement) located in Contra Costa County, California, is not intended, and shall not serve, to satisfy any local, state or federal regulatory requirement (e.g., mitigation for any local, state or federal authorization or permit), including but not limited to complying with a biological opinion under Section 7 of the Endangered Species Act of 1973, 16 U.S.C. Section 1361 *et seq.*, as amended (“ESA”), or fulfilling commitments of a Habitat Conservation Plan under Section 10 of the ESA, provided that Property acquired with any Subgrant Funds will be preserved and managed in accordance with, and will fulfill certain commitments of, the ECCC NCCP/HCP, to the extent consistent with the Federal Grant Application and the Federal Grant Agreement.

Subgrantee and Successor Subgrantee make this Certificate with the understanding that if WCB enters into the Agreement and subgrants Federal Grant Funds (as defined in the Agreement) to Subgrantee and Successor Subgrantee, WCB will do so in reliance on this Certificate.

Dated: \_\_\_\_\_, 20\_\_\_\_\_

**SUBGRANTEE**

East Contra Costa County Habitat Conservancy

By: \_\_\_\_\_

Print Name: Abigail Fateman

Title: Interim Executive Director

**SUCCESSOR SUBGRANTEE**

East Bay Regional Park District

By: \_\_\_\_\_

Print Name: Robert E. Doyle

Title: General Manager

## EXHIBIT C

### Commitment for Management and Funding

The undersigned are the Executive Director of the East Contra Costa County Habitat Conservancy (ECCCHC) and the General Manager of the East Bay Regional Park District (EBRPD), the Subgrantee and Successor Subgrantee, respectively, under the California Wildlife Conservation Board Subgrant Agreement for Acquisition of Fee Interest (Agreement) of which this **Exhibit C** forms a part. Subgrantee and Successor Subgrantee hereby commit to the Wildlife Conservation Board (WCB) as follows:

ECCCHC is the agency responsible for ensuring the preservation and management of lands acquired pursuant to the East Contra Costa County Natural Community Conservation Plan/Habitat Conservation Plan (ECCC NCCP/HCP). Conservation Measure 1.2 (“Prepare and Implement Preserve Management Plans for Natural Habitat Lands”) of the ECCC NCCP/HCP commits the ECCCHC to ensuring the preparation and implementation of Preserve Management Plans for acquired lands and sets forth standards for such management. Section 8.6.2 of the ECCC NCCP/HCP provides the ECCCHC with the ability to cooperate with other entities such as EBRPD to acquire and manage lands pursuant to the ECCC NCCP/HCP.

EBRPD is a party to an agreement implementing the ECCC NCCP/HCP and is anticipated to be a primary owner and manager of lands acquired pursuant to the ECCC NCCP/HCP. EBRPD will be the owner and manager of the Property (as defined in the Agreement). EBRPD owns and manages more than 100,000 acres of land in Alameda and Contra Costa Counties, much of which is similar in character and management need to the lands to be acquired pursuant to the Agreement. ECCCHC will provide assistance to EBRPD with management of Property, including funding assistance.

Subgrantee and Successor Subgrantee hereby commit to manage the Property (as defined in the Agreement) located in Contra Costa County, California, in perpetuity and according to the provisions of the ECCC NCCP/HCP for managing preserved lands in perpetuity and for funding such management, consistent with the following Purposes of Subgrant:

[Edit Purposes of Subgrant] *“preserving and protecting chaparral, oak woodland, oak savanna, grassland, wetland, seasonal wetland, riparian and other habitats crucial for numerous species covered by the East Contra Costa County Natural Community Conservation Plan/Habitat Conservation Plan (“ECCC NCCP/HCP”) as well as protecting critical habitat connectivity between existing preserved lands”*

Specific management actions for the Property are not known at this time. ECCCHC, with assistance from EBRPD, are in the process of developing a Preserve Management Plan for the Property. Management actions could include removal, repair and replacement of fences, inclusion of improved management conditions in the grazing lease and supervision of the grazing tenant, and control of exotic species. Anticipated costs of land management activities under the ECCC NCCP/HCP are set forth in Tables 9-1 and 9-2 and supporting detail is provided in Appendix G.

In furtherance of the commitment set forth above, and in order to manage the property consistent with the Purposes of this Subgrant, Subgrantee and Successor Subgrantee will fund management in perpetuity consistent with the funding plan established in Section 9.3 of the ECCC NCCP/HCP. ECCCHC and EBRPD anticipate allocating the costs of such management among the two agencies consistent with the general principle that ECCCHC will pay for those management costs relating to management and monitoring of the species and EBRPD will pay for those management costs relating to public access and public use of the Property. ECCCHC and EBRPD anticipate entering into one or more future agreements confirming their respective obligations to pay management costs, including the funding mechanisms for such payment which may be in the form of annual payments or an endowment.

Subgrantee and Successor Subgrantee make this Commitment with the understanding that if WCB enters into the Agreement and subgrants Federal Grant Funds (as defined in the Agreement) to Successor Subgrantee, WCB will do so in reliance on this Commitment.

Dated: \_\_\_\_\_, 20\_\_\_\_\_

SUBGRANTEE

East Contra Costa County Habitat Conservancy

By: \_\_\_\_\_

Print Name: Abigail Fateman

Title: Interim Executive Director

SUCCESSOR SUBGRANTEE

East Bay Regional Park District

By: \_\_\_\_\_

Print Name: Robert E. Doyle

Title: General Manager

**EXHIBIT D**

(Assurances and Certifications)

**ASSURANCES - CONSTRUCTION PROGRAMS**

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0042), Washington, DC 20503.

**PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.**

**NOTE:** Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the Awarding Agency. Further, certain Federal assistance awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the assistance; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will not dispose of, modify the use of, or change the terms of the real property title, or other interest in the site and facilities without permission and instructions from the awarding agency. Will record the Federal interest in the title of real property in accordance with awarding agency directives and will include a covenant in the title of real property acquired in whole or in part with Federal assistance funds to assure non-discrimination during the useful life of the project.
4. Will comply with the requirements of the assistance awarding agency with regard to the drafting, review and approval of construction plans and specifications.
5. Will provide and maintain competent and adequate engineering supervision at the construction site to ensure that the complete work conforms with the approved plans and specifications and will furnish progress reports and such other information as may be required by the assistance awarding agency or State.
6. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
7. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
8. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
9. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
10. Will comply with all Federal statutes relating to non-discrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

11. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal and federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
12. Will comply with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
13. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333) regarding labor standards for federally-assisted construction subagreements.
14. Will comply with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
15. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).
16. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
17. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).
18. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."
19. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE	
APPLICANT ORGANIZATION		DATE SUBMITTED

**ASSURANCES - CONSTRUCTION PROGRAMS**

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As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the assistance; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will not dispose of, modify the use of, or change the terms of the real property title, or other interest in the site and facilities without permission and instructions from the awarding agency. Will record the Federal interest in the title of real property in accordance with awarding agency directives and will include a covenant in the title of real property acquired in whole or in part with Federal assistance funds to assure non-discrimination during the useful life of the project.
4. Will comply with the requirements of the assistance awarding agency with regard to the drafting, review and approval of construction plans and specifications.
5. Will provide and maintain competent and adequate engineering supervision at the construction site to ensure that the complete work conforms with the approved plans and specifications and will furnish progress reports and such other information as may be required by the assistance awarding agency or State.
6. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
7. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
8. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
9. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
10. Will comply with all Federal statutes relating to non-discrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

11. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal and federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
12. Will comply with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
13. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333) regarding labor standards for federally-assisted construction subagreements.
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15. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).
16. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
17. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).
18. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."
19. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE	
APPLICANT ORGANIZATION		DATE SUBMITTED

**EXHIBIT E**

(Certified Resolution or Other Action of Governing Body of Subgrantee)

**EXHIBIT F**

(WCB Logo)



**EXHIBIT G**

(Notice of Unrecorded Subgrant Agreement)

**RECORDING REQUESTED BY:**

East Contra Costa County )  
Habitat Conservancy )  
30 Muir Road )  
Martinez, CA 94553 )  
Attn: Executive Director )  
)

**WHEN RECORDED, RETURN TO:**

)  
State of California )  
Wildlife Conservation Board )  
Attn: Executive Director )  
1807 13th Street, Suite 103 )  
Sacramento, CA 95811-7137 )

Project Name: [Insert Property Name]  
County: Contra Costa  
APNs: [Insert Assessor's Parcel Number(s)]

*Space above line for Recorder's use*

**NOTICE OF UNRECORDED SUBGRANT AGREEMENT  
(WITH COVENANTS AFFECTING REAL PROPERTY)**

This Notice of Unrecorded Subgrant Agreement ("Notice"), dated as of \_\_\_\_\_, 201\_\_, is made by the East Contra Costa County Habitat Conservancy ("Subgrantee"), and the East Bay Regional Park District ("Successor Subgrantee") and recorded concurrently with the Deed described below, to provide notice of an agreement between Subgrantee, Successor Subgrantee and the Wildlife Conservation Board ("WCB"), a subdivision of the State of California, affecting the real property described below.

1. WCB, Subgrantee and Successor Subgrantee have entered into the California Wildlife Conservation Board Subgrant Agreement for Acquisition of Fee Interest, WCB Subgrant Agreement No. [Insert WCB Subgrant Agreement Number] (Section 6 Grant Agreement No. [Insert Section 6 Grant Agreement Number]) ("Subgrant" or "Agreement"), pursuant to which WCB subgrants to Subgrantee certain Federal Grant Funds for Successor Subgrantee's acquisition of fee title to approximately [Insert Numerical Acreage] acres of real property located in the County of Contra Costa, California (the "Property"), by Grant Deed (the "Deed") from [Insert Name of Seller] ("Seller"). The Property is legally described in **Exhibit A** attached to this Notice and incorporated in it by this reference. Initial-capitalized terms used in this Notice and not otherwise defined shall have the meaning set forth in the Subgrant.

2. Subgrantee and Successor Subgrantee agree under the terms of the Subgrant to execute this Notice to give notice that Subgrantee received funds under the

Agreement to assist Successor Subgrantee in acquiring the Property and that, in consideration of the Subgrant Funds, Subgrantee and Successor Subgrantee have agreed to the terms of the Subgrant. The Subgrant is incorporated by reference into this Notice.

3. Subgrantee and Successor Subgrantee covenant and agree in Section 6.1 b. of the Agreement as follows:

3.1. The Property shall be held and used only in a manner that is consistent with the Agreement, including the following “Purposes of Subgrant” set forth in Section 3.2 of the Agreement:

[Edit Purposes of Subgrant Accordingly] The Property shall be held and used for the purposes of preserving and protecting chaparral, oak woodland, oak savanna, grassland, wetland, seasonal wetland, riparian and other habitats crucial for numerous species covered by the East Contra Costa County Natural Community Conservation Plan/Habitat Conservation Plan (“ECCC NCCP/HCP”) as well as protecting critical habitat connectivity between existing preserved lands (individually and collectively, the “Purposes of Subgrant”).

3.2. The Property shall be set aside in perpetuity for the purposes of conservation, including the Purposes of Subgrant.

3.3. Subgrantee and Successor Subgrantee shall comply with the terms and conditions of the award of Federal Grant Funds to the California Department of Fish and Wildlife (“CDFW”), to the extent such terms and conditions are applicable to Subgrantee, Successor Subgrantee, the Subgrant Funds or the Property.

3.4. The Property (including any portion of it or any interest in it) shall not be sold, transferred, exchanged or otherwise conveyed without the written approval of the State of California (the “State”), acting through the Executive Director of WCB, or its successor, and the U.S. Department of the Interior, Fish and Wildlife Service (“USFWS”) (to the extent required pursuant to the Federal Assistance Requirements).

3.5. The Property (including any portion of it or any interest in it) may not be used as security for any debt without the written approval of the State, acting through the Executive Director of WCB, or its successor, except to the extent the use of the Property as security is prohibited or limited by the Federal Assistance Requirements.

3.6. At the request of WCB, not less than once in any period of three calendar years, Subgrantee and Successor Subgrantee shall allow designated staff or representatives of WCB, CDFW and USFWS to access the Property to assess compliance with the terms, covenants and conditions of this Agreement. Provided, however, that if more frequent access is necessary to comply with applicable federal requirements (including, but not limited to, 50 C.F.R. Section 81.13) then Subgrantee and Successor Subgrantee shall allow designated staff or representatives of WCB, CDFW and USFWS access to the Property at such intervals as

WCB, CDFW or USFWS considers appropriate to meet federal requirements to which it is subject.

4. Pursuant to Section 8 of the Agreement, in the event of a Default under the Agreement, in addition to any and all remedies available at law or in equity, WCB may seek specific performance of the Subgrant and may require Successor Subgrantee to convey a conservation easement over the Property in favor of the State (or, at the election of WCB, another entity or organization authorized by California law to acquire and hold conservation easements), and to pay a sum to WCB which, when combined with the fair market value of the conservation easement, equals the amount of Subgrant Funds provided by the Agreement, together with interest thereon as provided in the Agreement. CDFW, as the Grantee under the Federal Grant Agreement, shall be an express third-party beneficiary of the Agreement and shall have the same rights and remedies as WCB in the event of a breach or Default by Subgrantee or Successor Subgrantee.

5. Pursuant to Section 9 of the Agreement, if the existence of Successor Subgrantee is terminated for any reason, title to all interest in the Property acquired with Subgrant funds shall immediately vest in the State. However, prior to that termination, upon approval of the State, acting through the Executive Director of WCB or its successor, another public agency or nonprofit organization may receive title to all or a portion of that interest in the Property by recording its acceptance of title in writing. Any deed or other instrument of conveyance whereby the Property or any interest in it is being acquired by a nonprofit organization pursuant to this section shall be recorded and shall set forth the executory interest or right of entry on the part of the State.

6. Pursuant to Section 10 of the Agreement, the provisions of the Subgrant that are not fully performed as of the close of escrow shall survive the close of escrow for Successor Subgrantee's acquisition of the Property and shall remain in full force and effect.

7. Pursuant to Section 11 of the Agreement, the Subgrant shall be binding upon Subgrantee and Successor Subgrantee and all designees, successors and assigns of Subgrantee and Successor Subgrantee.

8. Pursuant to Section 12 of the Agreement, if all or any part of the Property is taken by exercise of the power of eminent domain, or acquired by purchase in lieu of condemnation, WCB and Successor Subgrantee shall act jointly to recover from the condemning authority the full value of the Property so taken or purchased, and all direct or incidental damages resulting therefrom. WCB shall be entitled to the share of the Award which equals the ratio of the Subgrant Funds provided by WCB to the total purchase price Successor Subgrantee paid to acquire the Property.

9. This Notice is solely for the purpose of recording and in no way modifies the provisions of the Agreement. Subgrantee, Successor Subgrantee and WCB each has rights, duties and obligations under the Agreement which are not set forth in this Notice. To the extent the terms of this Notice conflict with the Agreement, the terms of the Agreement shall govern and control.

10. For additional terms and conditions of the Agreement, reference should be made to the California Wildlife Conservation Board Subgrant Agreement for Acquisition of Fee Interest by and between WCB, Subgrantee and Successor Subgrantee that commenced [REDACTED], 201[REDACTED] and is on file with the Wildlife Conservation Board, 1807 13th Street, Suite 103, Sacramento, California 95811-7137; *mailing address*: Wildlife Conservation Board, c/o Department of Fish and Wildlife, P. O. Box 944209, Sacramento, CA 94244-2090.

**SUBGRANTEE:**

East Contra Costa County Habitat Conservancy

By: \_\_\_\_\_

Print Name: Abigail Fateman

Title: Interim Executive Director

**SUCCESSOR SUBGRANTEE:**

East Bay Regional Park District

By: \_\_\_\_\_

Print Name: Robert E. Doyle

Title: General Manager

[Notary Acknowledgment]

**EXHIBIT A**

**Legal Description**

**CALIFORNIA WILDLIFE CONSERVATION BOARD**  
**GRANT AGREEMENT FOR ACQUISITION OF FEE INTEREST**

**Grantee:** Name: East Contra Costa County Habitat Conservancy  
Address: 30 Muir Road  
Martinez, CA 94553  
  
Attn: Abigail Fateman, Interim Executive Director  
  
Phone: (925) 674-7820  
Fax: (925) 674-7250  
E-mail: abigail.fateman@dcd.cccounty.us

Federal Employer ID No./Taxpayer ID No.: 26-2547338

**Successor Grantee:** Name: East Bay Regional Park District  
Address: P.O. Box 5381  
Oakland, CA 94605-0381  
  
Attn: Liz Musbach, Land Acquisition Manager  
  
Phone: (510) 544-2610  
Fax: (510) 569-1417  
E-Mail: lmusbach@ebparks.org

Federal Employer ID No./Taxpayer ID No.: 94-60000-591

**Project Name:** [Insert Name of Property]

**Project Location:** Contra Costa County

**WCB Grant Agreement Number:** [Insert Grant Agreement Number]

**WCB Project ID:** [Insert WCB Project ID]

**Grant Agreement Amount:** Not to exceed \$[Insert Numerical Amount]

**Notices to be addressed to:**

For Grantee: East Contra Costa County Habitat Conservancy  
30 Muir Road  
Martinez, CA 94553  
Attn: Executive Director

For Successor  
Grantee: East Bay Regional Park District  
P.O. Box 5381  
Oakland, CA 94605-0381  
Attn: Land Acquisition Manager

For Grantor: Wildlife Conservation Board  
1807 13th Street, Suite 103  
Sacramento, CA 95811-7137  
Attn: Executive Director

With a copy to: Department of Fish and Wildlife  
1416 Ninth Street, 12<sup>th</sup> Floor  
Sacramento, CA 95814  
Attn: Director

1. SCOPE OF AGREEMENT

Pursuant to Chapter 4 of Division 2 (commencing with Section 1300) of the California Fish and Game Code and the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection fund of 2006 (Proposition 84, Public Resources Code Section 75055(c)), the Wildlife Conservation Board (“Grantor”) hereby grants to East Contra Costa County Habitat Conservancy, (“Grantee”) and East Bay Regional Park District, (“Successor Grantee”), a sum not to exceed [Insert Grant Amount (spelled out)] Dollars (\$[Insert Numerical Amount]) (“Grant Funds”), upon and subject to the terms and conditions of this Grant Agreement for Acquisition of Fee Interest (“Agreement”).

2. PURPOSES OF GRANT

Grantor is entering into this Agreement, and the Grant Funds shall be used, only for the purpose of the project (the “Project”) described as: Successor Grantee’s acquisition of fee title to approximately [Insert Number of Acres] acres of land known as the [Insert Name of Property], located in the County of Contra Costa, California (the “Property”). The Property is more particularly described in **Exhibit A** attached to this Agreement.

Grantee and Successor Grantee covenant and agree that if Grantor deposits the Grant Funds into escrow and Successor Grantee acquires the Property, the Property shall be held and used for the purposes of [Edit Pruposes of Grant Accordinly] preserving and protecting chaparral, oak woodland, oak savanna, grassland, wetland, seasonal wetland, riparian and other habitats crucial for numerous species covered by the East Contra Costa County Natural Community Conservation Plan/Habitat Conservation Plan (“ECCC NCCP/HCP”) as well as protecting critical habitat connectivity between existing preserved lands (individually and collectively, the

“Purposes of Grant”).

Grantor understands the ECCC NCCP/HCP provides for low-intensity recreational uses on ECCC NCCP/HCP preserve lands, subject to appropriate constraints to protect covered species and natural communities, and that Property acquired with Grant Funds or used as a match for Grant Funds will be subject to such recreational uses, to the extent consistent with the ECCC NCCP/HCP. Notwithstanding the above, all parties acknowledge that nothing in this Agreement shall be deemed to impair pre-existing contracts or property rights on the real property proposed for acquisition.

### 3. CONDITIONS OF GRANT

Grantor’s obligation to disburse Grant Funds under this Agreement is conditioned upon and subject to the satisfaction of all of the following conditions precedent:

3.1. Grantor shall have reviewed and approved all documents pertaining to Successor Grantee’s acquisition of the Property, including, without limitation, appraisals, preliminary title reports and items referenced therein, options, agreements for purchase and sale, escrow instructions, and instruments of conveyance. Such review and approval by Grantor shall not be unreasonably withheld or delayed. Successor Grantee shall have removed or caused to be removed, or otherwise addressed to the satisfaction of Grantor, any encumbrances or defects of title that Grantor determines are inconsistent, or could interfere, with the Purposes of Grant. Any outstanding security interests or monetary encumbrances affecting the Property shall have been terminated.

3.2. Grantee shall acquire the Property from a willing seller for a purchase price that does not exceed the fair market value of the Property, as established by an appraisal that is conducted by an appraiser who is licensed pursuant to Part 3 (commencing with Section 11300) of Division 4 of the Business and Professions Code. The appraisal shall be prepared pursuant to the Uniform Standards of Professional Appraisal Practice (USPAP) and approved by the Department of General Services. The appraisal shall become part of the project file maintained by Grantor and shall be retained for no less than three years from the date of value.

3.3. Grantor shall have reviewed and approved a certified resolution or other appropriate action of the governing board or governing body of Grantee and Successor Grantee, authorizing the execution and performance of this Agreement and the acquisition of the Property by Successor Grantee. Upon approval by Grantor, the authorizing resolution or other action shall be attached to this Agreement as **Exhibit B**.

3.4. Grantee and Successor Grantee shall have deposited, or caused to be deposited, into escrow all funds beyond those granted under this Agreement that are needed for Grantee and Successor Grantee to complete the Project.

3.5. Concurrently with this Agreement, WCB and Grantee and Successor Grantee have entered into Subgrant Agreement No. [Insert Subgrant Agreement Number], pursuant to which WCB agrees to subgrant to Grantee the entire federal share of funding to facilitate Grantee's acquisition of the Property.

3.6. Grantee shall have provided WCB with a written commitment by Grantee and Successor Grantee for management of the Property in perpetuity consistent with the Purposes of Grant and according to the provisions of the ECCC NCCP/HCP for managing preserved lands in perpetuity and for funding such management, including but not limited to Conservation Measure 1.2, "Prepare and Implement Preserve Management Plans for Natural Habitat Lands". This commitment shall be attached to this Agreement as **Exhibit E**.

3.7. Grantee and Successor Grantee shall have provided WCB with written certification that the Acquisition is not intended, and shall not serve, to satisfy any local, State or federal regulatory requirement (e.g., mitigation for any local, State or federal permit), including but not limited to complying with a biological opinion under Section 7 of the Endangered Species Act of 1973, 16 U.S.C. Section 1361 *et seq.*, as amended ("ESA"), or fulfilling commitments of a Habitat Conservation Plan under Section 10 of the ESA (the "Certification"). WCB understands that, following acquisition by Successor Grantee, the Property will be preserved and managed in accordance with and will fulfill certain commitments under the ECCC NCCP/HCP, to the extent provided for in the Federal Grant Application and the Federal Grant Agreement. The Certification shall be attached to this Agreement as **Exhibit F**.

#### 4. DISBURSEMENT PROCEDURE

Except as provided in paragraph 17, upon satisfaction of all of the above Conditions of Grant, and subject to approval of the Project by the Wildlife Conservation Board at a duly noticed public meeting, Grantor shall disburse the Grant Funds directly into an escrow account established for the Project according to the following procedure:

4.1. Grantee shall request disbursement of the Grant Funds by sending a letter to the Grantor ("Disbursement Request"). The Disbursement Request shall be signed by an authorized representative of Grantee and shall contain all of the following:

- a. Name and address of Grantee;
- b. Project Name and Number of Grant Agreement;

- c. Dollar amount and purpose of disbursement;
- d. Name, address and telephone number of the title company or escrow holder, name of the escrow officer, and the escrow account number to which the Grant Funds will be disbursed; and
- e. A certification by Grantee that all funds (exclusive of the Grant Funds to be provided under this Agreement) needed to complete the Project have been secured and have been or will be deposited to escrow prior to or at the same time as the requested Grant Funds.

4.2. After receipt of the Disbursement Request, Grantor will promptly and timely (estimated to be 45 working days from the date Grantor receives the Disbursement Request) disburse an amount not to exceed [Insert Amount (spelled out)] Dollars (\$[Insert Numerical Amount]) into the designated escrow account.

## 5. GRANTEE'S AND SUCCESSOR GRANTEE'S COVENANTS

In consideration of Grantor's disbursement of the Grant Funds, Grantee and Successor Grantee hereby covenant and agree as follows:

5.1. The Grant Funds shall be used as purchase money only, which excludes escrow and title fees and any other fees and costs incurred to accomplish the transaction and the conveyance and acquisition of the Property.

5.2. The Property shall be held and used only in a manner that is consistent with this Agreement, including the "Purposes of Grant" set forth in Section 2.

5.3. Grantee and Successor Grantee shall recognize the cooperative nature of the Project and shall provide credit to the Grantor, the California Department of Fish and Wildlife ("CDFW") and any other contributor on signs, demonstrations, promotional materials, advertisements, publications or exhibits prepared or approved by Grantee and/or Successor Grantee referencing the Project. Subject to the mutual agreement of Grantor, Grantee and Successor Grantee regarding text, design and location, Grantee shall, or shall cause Successor Grantee to, post sign(s) on the Property to indicate the participation of Grantor and CDFW in Successor Grantee's purchase of the Property; *provided however*, that the sign(s) shall display Grantor's logo, as shown on **Exhibit C**.

5.4. The Property (including any portion of it or any interest in it) shall not be sold, transferred, exchanged or otherwise conveyed without the written approval of the State of California, acting through the Executive Director of the Wildlife Conservation Board ("WCB"), or its successor. Such approval shall not be unreasonably withheld as long as the Property shall continue to be held and used only in a manner consistent with this Agreement, including the Purposes of

Grant set forth in Section 2, and each successor-in-interest assumes and agrees in writing to be bound by the terms, covenants and conditions of this Agreement.

5.5. The Property (including any portion of it or interest in it) may not be used as security for any debt without the written approval of the State of California, acting through the Executive Director of WCB, or its successor.

5.6. Grantee shall record or cause to be recorded, concurrently with close of escrow for the purchase of the Property, a Notice of Unrecorded Grant Agreement (the "Notice"), incorporating by reference this Agreement and giving public notice that Grantee received funds under this Agreement in order to assist Successor Grantee in acquiring the Property and that, in consideration for the receipt of the Grant Funds, Grantee and Successor Grantee have agreed to the terms of this Agreement. The Notice shall be in the form of **Exhibit D**.

5.7. Grantee or Successor Grantee shall provide to Grantor, promptly following the close of escrow, a conformed copy of the recorded deed(s) and Notice, with all recording information, as well as a copy of the final closing or settlement statement and the title insurance policy insuring Successor Grantee as the owner of fee simple title to the Property. Grantee shall also cause Successor Grantee to provide copies of such other documents related to the closing of the above transaction as requested by Grantor. These documents shall become part of the project file maintained by Grantor.

5.8. At the request of Grantor, not less than once in any period of three calendar years, Grantee and Successor Grantee shall allow designated staff of Grantor to access the Property to assess compliance with the terms, covenants and conditions of this Agreement.

5.9. Grantee and Successor Grantee agree to ensure that the terms and conditions of this Grant Agreement shall be taken into account when calculating the Baseline/Business As Usual of the Property for purposes of establishing carbon credits or other emissions offsets proposed to be authorized, created, sold, exchanged or transferred. Grantee and Successor Grantee agree to notify Grantor prior to any such proposed establishment.

5.10 [Include this Section if Property has Communication Tower, Wind Turbine, or Residential Lease Revenue] The Property will be acquired by Successor Grantee subject to one or a combination of residential leases that have been approved by WCB in accordance with the terms of this Agreement (collectively, the "Leases"). Following Successor Grantee's acquisition of the Property, Successor Grantee will be entitled to receive the lease revenues due under such Leases (collectively, the "Lease Revenues"). All Lease Revenues received by Successor Grantee shall be used by Successor Grantee as follows:

- a. To pay management costs associated with the management of any

real property that is (1) identified in the Federal Grant Agreement and described in Exhibit A attached to the Agreement, and (2) included in the ECCC NCCP/HCP preserve lands (collectively, the "Management Costs"), which Management Costs may include, without limitation, any combination of the following costs:

- (i) Personnel performing day to day oversight, management and protection of such properties (e.g. the cost of rangers, police, and fire personnel);
- (ii) Fence repair, replacement and construction;
- (iii) Maintaining roads and access facilities;
- (iv) Control of invasive or exotic species;
- (v) Improvement of livestock watering facilities to prevent degradation of natural waters and wetlands;
- (vi) Removal of debris & unnecessary structures, including buildings & unnecessary roads;
- (vii) Other habitat enhancement activities;
- (viii) Monitoring of habitat conditions and of ECCC HCP/NCCP covered species; and
- (ix) Adaptive management activities guided by monitoring; and/or

b. To fund a non-wasting endowment that will provide funding for those Management Costs incurred following the date(s) Lease Revenues will be received and available to cover such costs.

The provisions of this Section 5.10 of this Agreement only apply to Lease Revenues received under the Leases, which expressly include a residential lease, and do not apply to lease revenues, if any, received under any grazing leases or other types of leases.

## 6. BREACH AND DEFAULT

6.1. In the event of a breach of any of the terms, covenants or conditions of this Agreement, Grantor shall give written notice to Grantee and Successor Grantee describing the breach. Notice shall be deemed given when personally delivered or deposited in the United States Mail, postage prepaid, or with a reliable over-night courier, addressed to Grantee and Successor Grantee at the addresses for notices set forth at the beginning of this Agreement.

6.2. If Grantee or Successor Grantee does not cure the breach within 90 days of the date a notice of breach is given or, if the breach is not curable within said 90-day period, Grantee or Successor Grantee does not commence the cure within the 90-day period and diligently pursue it to completion, then Grantee and Successor Grantee shall be in default ("Default") under this Agreement.

6.3. Grantee and Successor Grantee shall also be in Default under this

Agreement upon the discovery that information given to Grantor by or on behalf of Grantee or Successor Grantee under or in connection with obtaining this Agreement was materially false or misleading. Notice of a Default under this Section 6.3 shall be given in accordance with Section 6.1.

## 7. REMEDIES

In the event of a Default under this Agreement, in addition to any and all remedies available at law or in equity, Grantor shall have the following remedies:

7.1. Grantor may seek specific performance of this Agreement. Grantee and Successor Grantee agree that payment by Grantee and/or Successor Grantee to Grantor of an amount equal to the Grant Funds disbursed under this Agreement would be inadequate compensation to Grantor for any Default because the benefit to be derived by Grantor from full compliance by Grantee and Successor Grantee with the terms of this Agreement is the preserving and protecting chaparral, oak woodland, oak savanna, grassland, wetland, seasonal wetland, riparian and other habitats crucial for numerous species covered by the ECCC NCCP/HCP as well as protecting critical habitat connectivity between existing preserved lands and because such benefit exceeds to an immeasurable and unascertainable extent the amount of money furnished by Grantor by way of Grant Funds under this Agreement.

7.2. Grantor may require Grantee and/or Successor Grantee to convey a conservation easement over the Property in favor of Grantor or, at the election of Grantor, another entity or organization authorized by California law to acquire and hold conservation easements and to pay, or cause Successor Grantee to pay, a sum to Grantor which, when combined with the fair market value of the conservation easement, equals the sum granted to Grantee pursuant to this Agreement, together with interest compounded semi-annually starting from the date of this Agreement to and including the date of payment, at a rate equivalent to that which is being earned at the time of Default on deposits in the State of California's Pooled Money Investment Account. The conservation easement shall be for the purposes of preserving and protecting chaparral, oak woodland, oak savanna, grassland, wetland, seasonal wetland, riparian and other habitats crucial for numerous species covered by the ECCC NCCP/HCP as well as protecting critical habitat connectivity between existing preserved lands. The value of the conservation easement shall be determined by a fair market value appraisal that is conducted by an appraiser who is licensed pursuant to Part 3 (commencing with Section 11300) of Division 4 of the Business and Professions Code and acceptable to Grantor. The appraisal shall be prepared pursuant to USPAP and, if required by law, approved by the Department of General Services.

7.3. Despite the contrary provisions of Article 6 of this Agreement, if Grantor determines that circumstances require immediate action to prevent or mitigate

interference with the Purposes of Grant arising from a breach of this Agreement, then Grantor may pursue its remedies without waiting for the period provided for cure to expire.

#### 8. NONPROFIT ORGANIZATION GRANTEE

If the existence of Successor Grantee is terminated for any reason, title to all interest in the Property acquired with Grant Funds shall immediately vest in the State. However, prior to that termination, upon approval of the State, acting through the Executive Director of WCB or its successor, another public agency or nonprofit organization may receive title to all or a portion of that interest in the Property by recording its acceptance of title in writing. Any deed or other instrument of conveyance whereby the Property or any interest in it is being acquired by a nonprofit organization pursuant to this Section 8 shall be recorded and shall set forth the executory interest or right of entry on the part of the State.

#### 9. TERM

9.1. This Agreement shall be deemed executed and effective when signed by an authorized representative of each party and received in the respective offices of Grantee, Successor Grantee and Grantor, together with the resolution described in Section 3.3 (the "Effective Date"). Grantee, Successor Grantee and Grantor shall each sign three original Agreements. Each party shall receive one completely executed original.

9.2. The term of this Agreement will commence on the date authorized by the Wildlife Conservation Board, as set forth in Section 16 and, unless previously terminated as provided in Section 9.3, will expire on [REDACTED], 201[REDACTED] if escrow has not closed by that date.

9.3. Prior to Successor Grantee's close of escrow for acquisition of the Property, any party may terminate this Agreement for any reason or for no reason, by providing the other parties with not less than 15 days written notice of such termination. If this Agreement is terminated after Grantor's deposit of the Grant Funds into escrow but before close of escrow for Successor Grantee's acquisition of the Property, Grantee shall cause the escrow holder to immediately return all Grant Funds to Grantor and Grantee shall bear all costs and expenses of such termination.

9.4. The provisions of this Agreement that are not fully performed as of the close of escrow, including but not limited to Section 2 (Purposes of Grant) and Section 5 (Grantee's and Successor Grantee's Covenants), shall survive the close of escrow for Successor Grantee's acquisition of the Property and remain in full force and effect.

#### 10. LIABILITY; MODIFICATIONS; INTERPRETATION

10.1. Grantee and Successor Grantee shall indemnify, protect and hold harmless Grantor, CDFW, the State of California, and their respective members, directors, officers, agents, and employees (each an "Indemnified Party"), from and against any and all claims, demands, damages, liabilities, losses, costs (including attorneys' fees) and expenses (collectively, "Claims") arising out of, connected with, or incident to this Agreement or the acquisition, ownership, use, management, operation or maintenance of the Property, except that Grantee and Successor Grantee shall have no obligation to indemnify or hold harmless an Indemnified Party for Claims caused by the negligent or wrongful act of that Indemnified Party.

10.2. This Agreement may be modified only by written amendment signed by Grantor, Grantee, and Successor Grantee. No prior or contemporaneous oral understanding or agreement not incorporated in this Agreement shall be binding on either of the parties.

10.3. All references herein to "Grantee" are intended to refer to Grantee or its designee, successor or assignee as may be approved by WCB (including, upon its acquisition of the Property, Successor Grantee).

10.4. If any provision of this Agreement or the application thereof to any person or circumstance is held to be invalid or unenforceable, that shall not affect any other provision of this Agreement or applications of the Agreement that can be given effect without the invalid provision or application and to this end the provisions of this Agreement are severable.

10.5. Grantee, Successor Grantee, and their officers, directors, employees, agents and representatives, is each acting in an independent capacity in entering into and carrying out this Agreement, and not as a partner, member, director, officer, agent, employee or representative of Grantor.

10.6. This Agreement is not assignable or transferable by Grantee or Successor Grantee, either in whole or in part, except in connection with a transfer of the Property approved by Grantor under Section 5.4 of this Agreement.

10.7. Any costs incurred by Grantor, where Grantor is the prevailing party, in enforcing the terms of this Agreement against Grantee, including but not limited to costs of suit, attorneys' and experts' fees, at trial and on appeal, and costs of enforcing any judgment, shall be borne by Grantee and Successor Grantee.

10.8. Enforcement of the terms of this Agreement by Grantor shall be at the discretion of Grantor, and any forbearance by Grantor to exercise its rights under this Agreement shall not be deemed or construed to be a waiver of such term or of any subsequent breach of the same or any other term of this Agreement or any of the rights of Grantor under it.

10.9. Grantor will notify Grantee and Successor Grantee as promptly as possible following Grantor's receipt of any request for information related to the Project under the California Public Records Act (Government Code Section 6250 *et seq.*).

## 11. CONDEMNATION

If all or any part of the Property is taken by exercise of the power of eminent domain, or acquired by purchase in lieu of condemnation, Grantor, Grantee, and Successor Grantee shall act jointly to recover from the condemning authority the full value of the Property so taken or purchased, and all direct or incidental damages resulting therefrom. Grantor shall be entitled to the share of the Award (as defined below) which equals the ratio of the Grant Funds provided by Grantor to the purchase price Successor Grantee paid to acquire the Property (e.g., if Grantor provided \$50,000.00 of Grant Funds and the purchase price was \$75,000.00, then Grantor would be entitled to two-thirds of the Award). For purposes of this Agreement, the "Award" shall mean all compensation awarded, paid or received on account of the Property so taken or purchased, and all direct or incidental damages resulting from the taking or purchase, less all out-of-pocket expenses reasonably incurred by Successor Grantee in connection with the taking or purchase.

## 12. AUDIT

Grantee and Successor Grantee shall maintain complete and accurate records of its actual Project costs, in accordance with generally accepted accounting principles and practices, and shall retain said records for at least four years after final disbursement by Grantor. During such time, Grantee and Successor Grantee shall make said records available (or cause them to be made available) to the State of California for inspection and audit purposes during normal business hours. Expenditures not documented, and expenditures not allowed under this Agreement or otherwise authorized in writing by Grantor shall be borne by Grantee and Successor Grantee. The audit shall be confined to those matters connected with this Agreement, including but not limited to administration and overhead costs.

## 13. UNION ORGANIZING

By signing this Agreement, Grantee and Successor Grantee hereby acknowledge the applicability of Government Code Sections 16645 through 16649 to this Agreement and certify that:

13.1. No state funds disbursed by this grant will be used to assist, promote or deter union organizing;

13.2. Grantee and Successor Grantee shall account for state funds disbursed for a specific expenditure by this grant, to show those funds were allocated to

that expenditure;

13.3. Grantee and Successor Grantee shall, where state funds are not designated as described in Section 13.2 above, allocate, on a pro-rata basis, all disbursements that support the grant program; and

13.4. If Grantee or Successor Grantee makes expenditures to assist, promote or deter union organizing, Grantee and Successor Grantee will maintain records sufficient to show that no state funds were used for those expenditures, and that Grantee and Successor Grantee shall provide those records to the Attorney General upon request.

#### 14. NON-DISCRIMINATION

During the performance of this Agreement, Grantee and Successor Grantee shall not unlawfully discriminate against, harass, or allow harassment against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical disability (including HIV and AIDS), mental disability, medical condition, marital status, age (over 40), sex, sexual orientation, or use of family-care leave, medical-care leave, or pregnancy-disability leave. Grantee and Successor Grantee shall take affirmative action to ensure that the evaluation and treatment of its employees and applicants for employment are free of such discrimination and harassment. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Grantee and Successor Grantee shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12900 (a – f) *et seq.*), and applicable regulations (California Code of Regulations, Title 2, Section 7285 *et seq.*). The regulations of the Fair Employment and Housing Commission regarding Contractor Nondiscrimination and Compliance (Chapter 5 of Division 4 of Title 2 of the California Code of Regulations) are incorporated by reference into this Agreement. Grantee and Successor Grantee shall give written notice of its obligations under this non-discrimination clause to labor organizations with which Grantee or Successor Grantee has a collective bargaining or other agreement, and shall post in conspicuous places available to employees and applicants for employment, notice setting forth the provisions of this section. Grantee and Successor Grantee shall also include the nondiscrimination and compliance provisions of this Agreement in all contracts related to the Project.

#### 15. EXHIBITS

Each of the Exhibits referenced in this Agreement is incorporated by reference as though set forth in full herein. The following Exhibits are attached to this Agreement:

**Exhibit A** – Legal Description

**Exhibit B** – Certified Resolution or Other Action of Governing Body of Grantee

and Successor Grantee

**Exhibit C** – Grantor’s Logo

**Exhibit D** – Form of Notice of Unrecorded Grant Agreement

**Exhibit E** – Commitment for Management and Funding

**Exhibit F** – Certificate of No Regulatory Requirement

16. AUTHORIZATION

The signature of the Executive Director certifies that at the Wildlife Conservation Board meeting held on [REDACTED], 201[REDACTED], the Board authorized the award of an acquisition grant to Grantee as provided in this Agreement.

17. NON-AVAILABILITY OF FUNDS.

Grantor shall not be obligated to disburse any Grant Funds under this Agreement unless and until the bond cash proceeds identified for allocation to the Project (as further specified in the Funding Certification attached to this Agreement) are released by the State Treasurer’s Office to Grantor for expenditure for this grant. Despite any contrary provision of this Agreement, no request for disbursement submitted prior to the release of such bond cash proceeds to Grantor shall be effective.

IN WITNESS WHEREOF, this Agreement is made and entered into this \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ in the State of California, by and between the Wildlife Conservation Board East Contra Costa County Habitat Conservancy and East Bay Regional Park District, each of which hereby agrees to the terms and conditions referenced on pages 1 through 14, along with Exhibits A through F, of this Agreement.

STATE OF CALIFORNIA  
WILDLIFE CONSERVATION BOARD

GRANTEE:  
EAST CONTRA COSTA COUNTY  
HABITAT CONSERVANCY

By: \_\_\_\_\_  
John P. Donnelly

By: \_\_\_\_\_  
Aibigail Fateman

Title: Executive Director

Title: Interim Executive Director

Date: \_\_\_\_\_

Date: \_\_\_\_\_

SUCCESSOR GRANTEE  
EAST BAY REGIONAL PARK DISTRICT

By: \_\_\_\_\_  
Robert E. Doyle

Title: General Manager

Date: \_\_\_\_\_

**EXHIBIT A**

(Legal Description)

**EXHIBIT B**

(Resolution)

**EXHIBIT C**

(WCB Logo)



**EXHIBIT D**

(Notice of Unrecorded Grant Agreement)

**RECORDING REQUESTED BY:**

East Contra Costa County )  
Habitat Conservancy )  
30 Muir Road )  
Martinez, CA 94553 )  
Attn: Executive Director )

**WHEN RECORDED, RETURN TO:**

State of California )  
Wildlife Conservation Board )  
Attn: Executive Director )  
1807 13th Street, Suite 103 )  
Sacramento, CA 95811-7137 )

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*Space above line for Recorder's use*

APNs: [Insert Assessor's Parcel Number(s)]  
Property Name: [Insert Property Name]  
County: Contra Costa County

**NOTICE OF UNRECORDED GRANT AGREEMENT  
(WITH COVENANTS AFFECTING REAL PROPERTY)**

This Notice of Unrecorded Grant Agreement ("Notice"), dated as of [redacted], 201[redacted], is made by East Contra Costa County Habitat Conservancy ("Grantee"), and the East Bay Regional Park District ("Successor Grantee") and recorded concurrently with the Deed described below, to provide notice of an agreement between Grantee, Successor Grantee, and the Wildlife Conservation Board ("Grantor" or "WCB"), a subdivision of the State of California, affecting the real property described below.

1. WCB, Grantee and Successor Grantee have entered into the California Wildlife Conservation Board Grant Agreement for Acquisition of Fee Interest, Grant Agreement No. [Insert WCB Grant Number] ("Grant" or "Agreement"), pursuant to which WCB grants to Grantee certain funds for Successor Grantee's acquisition of fee title to approximately [Insert Number of Acres] acres of real property located in the County of Contra Costa, California (the "Property"), by Grant Deed (the "Deed") from [Insert Name of Seller] ("Seller"). The Property is legally described in **Exhibit A** attached to this Notice and incorporated in it by this reference. Initial-capitalized terms used in this Notice and not otherwise defined shall have the meaning set forth in the Grant.

2. Grantee and Successor Grantee agree under the terms of the Grant to execute this Notice to give notice that Grantee received funds under the Agreement to

assist Grantee in acquiring the Property and that, in consideration of the Grant Funds, Grantee and Successor Grantee have agreed to the terms of the Grant. The Grant is incorporated by reference into this Notice.

3. Grantee and Successor Grantee covenant and agree in Section 5 of the Agreement as follows:

3.1. The Property shall be held and used only in a manner that is consistent with the Agreement, including the following “Purposes of Grant” set forth in Section 2 of the Agreement:

[Edit Purposes of Grant Accordingly] The Property shall be held and used for the purposes of preserving and protecting chaparral, oak woodland, oak savanna, grassland, wetland, seasonal wetland, riparian and other habitats crucial for numerous species covered by the East Contra Costa County Natural Community Conservation Plan/Habitat Conservation Plan (“ECCC NCCP/HCP”) as well as protecting critical habitat connectivity between existing preserved lands (individually and collectively, the “Purposes of Grant”).

3.2. The Property (including any portion of it or any interest in it) shall not be sold, transferred, exchanged or otherwise conveyed without the written approval of the State of California, acting through the Executive Director of the Wildlife Conservation Board (“WCB”), or its successor. Such approval shall not be unreasonably withheld as long as the Property shall continue to be held and used only in a manner consistent with this Agreement, including the Purposes of Grant set forth in Section 2, and each successor-in-interest assumes and agrees in writing to be bound by the terms, covenants and conditions of this Agreement.

3.3. The Property (including any portion of it or any interest in it) may not be used as security for any debt without the written approval of the State of California, acting through the Executive Director of WCB or its successor.

3.4. At the request of Grantor, not less than once in any period of three calendar years, Grantee and Successor Grantee shall allow designated staff of Grantor to access the Property to assess compliance with the terms, covenants and conditions of this Agreement.

4. Pursuant to Section 7 of the Agreement, in the event of a Default under the Agreement, in addition to any and all remedies available at law or in equity, Grantor may seek specific performance of the Grant and may require Successor Grantee to convey a conservation easement over the Property in favor of Grantor (or, at the election of Grantor, another entity or organization authorized by California law to acquire and hold conservation easements and which is willing and financially able to assume all of the obligations and responsibilities of Successor Grantee), and to pay a sum to Grantor which, when combined with the fair market value of the conservation easement, equals the sum

granted to Grantee pursuant to the Agreement, together with interest thereon as provided in the Agreement.

5. Pursuant to Section 8 of the Agreement, if Successor Grantee is a nonprofit organization and the existence of Successor Grantee is terminated for any reason, title to all interest in real property acquired with state funds shall immediately vest in the State of California. However, prior to that termination, upon approval of Grantor, another public agency or nonprofit organization may receive title to all or a portion of that interest in real property by recording its acceptance of title in writing. Any deed or other instrument of conveyance whereby real property is being acquired by a nonprofit organization pursuant to this section shall be recorded and shall set forth the executory interest and right of entry on the part of the State of California.

6. Pursuant to Section 9.2 of the Agreement, the Grant shall remain in full force and effect from and after the close of escrow for the acquisition of the Property.

7. Pursuant to Section 10.3 of the Agreement, the Grant shall be binding upon Grantee and all designees, successors and assigns of Grantee (including, upon its acquisition of the Property, Successor Grantee).

8. Pursuant to Section 11 of the Agreement, if all or any part of the Property is taken by exercise of the power of eminent domain, or acquired by purchase in lieu of condemnation, Grantor, Grantee and Successor Grantee shall act jointly to recover from the condemning authority the full value of the Property so taken or purchased, and all direct or incidental damages resulting therefrom. Grantor shall be entitled to the share of the Award, which equals the ratio of the Grant Funds provided by Grantor to the purchase price Successor Grantee paid to acquire the Property.

9. This Notice is solely for the purpose of recording and in no way modifies the provisions of the Agreement. Grantee, Successor Grantee and WCB each has rights, duties and obligations under the Agreement, which are not set forth in this Notice. To the extent the terms of this Notice conflict with the Agreement, the terms of the Agreement shall govern and control.

10. For additional terms and conditions of the Agreement, reference should be made to the California Wildlife Conservation Board Grant Agreement for Acquisition of Fee Interest by and between WCB, Grantee and Successor Grantee that commenced [REDACTED], 201[REDACTED] and is on file with the Wildlife Conservation Board, 1807 13th Street, Suite 103, Sacramento, California 95811-7137; *mailing address*: Wildlife Conservation Board, c/o Department of Fish and Wildlife, P. O. Box 944209, Sacramento, CA 94244-2090.

GRANTEE: EAST CONTRA COSTA COUNTY HABITAT CONSERVANCY

By: \_\_\_\_\_  
Abigail Fateman

Title: Interim Executive Director

Date: \_\_\_\_\_

SUCCESSOR GRANTEE: EAST BAY REGIONAL PARK DISTRICT

By: \_\_\_\_\_  
Robert E. Doyle

Title: General Manager

Date: \_\_\_\_\_

**Exhibit A**

**Legal Description**

## EXHIBIT E

### Commitment for Management and Funding

The undersigned are the Executive Director of the East Contra Costa County Habitat Conservancy (ECCCHC) and the General Manager of the East Bay Regional Park District (EBRPD), the Grantee and Successor Grantee, respectively, under the California Wildlife Conservation Board Grant Agreement for Acquisition of Fee Interest (Agreement) of which this **Exhibit E** forms a part. Grantee and Successor Grantee hereby commit to the Wildlife Conservation Board (WCB) as follows:

ECCCHC is the agency responsible for ensuring the preservation and management of lands acquired pursuant to the East Contra Costa County Natural Community Conservation Plan/Habitat Conservation Plan (ECCC NCCP/HCP). Conservation Measure 1.2 ("Prepare and Implement Preserve Management Plans for Natural Habitat Lands") of the ECCC NCCP/HCP commits the ECCCHC to ensuring the preparation and implementation of Preserve Management Plans for acquired lands and sets forth standards for such management. Section 8.6.2 of the ECCC NCCP/HCP provides the ECCCHC with the ability to cooperate with other entities such as EBRPD to acquire and manage lands pursuant to the ECCC NCCP/HCP.

EBRPD is a party to an agreement implementing the ECCC NCCP/HCP and is anticipated to be a primary owner and manager of lands acquired pursuant to the ECCC NCCP/HCP. EBRPD will be the owner and manager of the Property (as defined in the Agreement). EBRPD owns and manages more than 100,000 acres of land in Alameda and Contra Costa Counties, much of which is similar in character and management need to the lands to be acquired pursuant to the Agreement. ECCCHC will provide assistance to EBRPD with management of Property, including funding assistance.

Grantee and Successor Grantee hereby commit to manage the Property (as defined in the Agreement) located in Contra Costa County, California, in perpetuity and according to the provisions of the ECCC NCCP/HCP for managing preserved lands in perpetuity and for funding such management, consistent with the following Purposes of Grant:

*[Edit Purposes of Grant Accordingly] "preserving and protecting chaparral, oak woodland, oak savanna, grassland, wetland, seasonal wetland, riparian and other habitats crucial for numerous species covered by the East Contra Costa County Natural Community Conservation Plan/Habitat Conservation Plan ("ECCC NCCP/HCP") as well as protecting critical habitat connectivity between existing preserved lands"*

Specific management actions for the Property are not known at this time. ECCCHC, with assistance from EBRPD, are in the process of developing a Preserve Management Plan for the Property. Management actions could include removal, repair and replacement of fences, inclusion of improved management conditions in the grazing lease and supervision of the grazing tenant, and control of exotic species. Anticipated costs of land management activities under the ECCC NCCP/HCP are set forth in Tables 9-1 and 9-2 and supporting detail is provided in Appendix G.

In furtherance of the commitment set forth above, and in order to manage the property consistent with the Purposes of this Agreement, Grantee and Successor Grantee will fund management in perpetuity consistent with the funding plan established in Section 9.3 of the ECCC NCCP/HCP. ECCCHC and EBRPD anticipate allocating the costs of such management among the two agencies consistent with the general principle that ECCCHC will pay for those management costs relating to management and monitoring of the species and EBRPD will pay for those management costs relating to public access and public use of the Property. ECCCHC and EBRPD anticipate entering into one or more future agreements confirming their respective obligations to pay management costs, including the funding mechanisms for such payment which may be in the form of annual payments or an endowment.

Grantee and Successor Grantee make this Commitment with the understanding that if WCB enters into the Agreement and grants funds (as defined in the Agreement) to Successor Grantee, WCB will do so in reliance on this Commitment.

Dated: \_\_\_\_\_, 20\_\_\_\_

GRANTEE

East Contra Costa County Habitat Conservancy

By: \_\_\_\_\_

Print Name: Abigail Fateman

Title: Interim Executive Director

SUCCESSOR GRANTEE

East Bay Regional Park District

By: \_\_\_\_\_

Print Name: Robert E. Doyle

Title: General Manager

## EXHIBIT F

### Certificate of No Regulatory Requirement

The undersigned are the Executive Director of the East Contra Costa County Habitat Conservancy and the General Manager of the East Bay Regional Park District, the Grantee and Successor Grantee, respectively, under the California Wildlife Conservation Board Grant Agreement for Acquisition of Fee Interest (Agreement) of which this **Exhibit F** forms a part. Grantee and Successor Grantee hereby certifies to the Wildlife Conservation Board (WCB) as follows:

Successor Grantee's acquisition of the Property (as defined in the Agreement) located in Contra Costa County, California, is not intended, and shall not serve, to satisfy any local, state or federal regulatory requirement (e.g., mitigation for any local, state or federal authorization or permit), including but not limited to complying with a biological opinion under Section 7 of the Endangered Species Act of 1973, 16 U.S.C. Section 1361 *et seq.*, as amended ("ESA"), or fulfilling commitments of a Habitat Conservation Plan under Section 10 of the ESA, provided that Property acquired with any Grant Funds will be preserved and managed in accordance with, and will fulfill certain commitments of, the ECCC NCCP/HCP, to the extent consistent with the Agreement.

Grantee and Successor Grantee make this Certificate with the understanding that if WCB enters into the Agreement and grants funds (as defined in the Agreement) to Grantee and Successor Grantee, WCB will do so in reliance on this Certificate.

Dated: \_\_\_\_\_, 20\_\_\_\_

#### GRANTEE

East Contra Costa County Habitat Conservancy

By: \_\_\_\_\_

Print Name: Abigail Fateman

Title: Interim Executive Director

#### SUCCESSOR GRANTEE

East Bay Regional Park District

By: \_\_\_\_\_

Print Name: Robert E. Doyle

Title: General Manager

**EAST CONTRA COSTA COUNTY  
HABITAT CONSERVANCY**

**DATE:** October 27, 2014  
**TO:** Governing Board  
**FROM:** Conservancy Staff (Abigail Fateman)  
**SUBJECT:** Update on Hess Creek Channel Restoration Project

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**RECOMMENDATION**

**ACCEPT update on Hess Creek Channel Restoration Project.**

**BACKGROUND**

Staff will provide a verbal update on the Hess Creek Channel Restoration Project.

CONTINUED ON ATTACHMENT: <u>No</u>	APPROVED AS RECOMMENDED: _____
ACTION OF BOARD ON: <u>October 27, 2014</u>	
OTHER: _____	
<b><u>VOTE OF BOARD MEMBERS</u></b>	
<input type="checkbox"/> UNANIMOUS	I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF AN ACTION TAKEN AND ENTERED ON THE MEETING RECORD OF THE CONSERVANCY GOVERNING BOARD ON THE DATE SHOWN.  ATTESTED  _____ <i>John Kopchik, SECRETARY OF THE EAST CONTRA COSTA COUNTY          HABITAT CONSERVANCY</i>  BY: _____, DEPUTY
AYES: _____	
NOES: _____	
ABSENT: _____	
ABSTAIN: _____	

**EAST CONTRA COSTA COUNTY  
HABITAT CONSERVANCY**

**DATE:** October 27, 2014  
**TO:** Governing Board  
**FROM:** Conservancy Staff  
**SUBJECT:** Recognition for Mr. Hank Stratford

**RECOMMENDATION**

**PRESENT Hank Stratford with a certificate honoring his many years of service and leadership for the East Contra Costa County Habitat Conservancy.**

**DISCUSSION**

Mr. Hank Stratford served on the Conservancy Governing Board as the primary representative of the City of Clayton since January 2009, and will be stepping down at the end of 2014. Mr. Stratford has played a valuable role in the efforts of the Conservancy to implement the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan, providing a unique blend of attention to detail and focus on big picture goals.

Mr. Stratford has been actively and conscientiously engaged in all of the Conservancy's activities. He has served one term as the Chair of the Board for the calendar year of 2013. He brought his accounting expertise to bear in overseeing the development of Conservancy budgets and audits. He has participated in every opportunity to get his boots on the ground to tour restoration sites and new acquisitions. He has considered the effect Board actions have on the entire region and all participating organizations and individuals. He has been a thoughtful and thorough leader for the Conservancy.

Under the leadership of Mr. Stratford, the Conservancy has partnered with the East Bay Regional Park District to acquire from willing sellers more than 11,000 acres of park and open space land for the Preserve System, constructed eight restoration projects to benefit special status species, and streamlined permitting for approximately 65 public and private projects, a legacy that will benefit the residents of east Contra Costa County and the Bay Area region.

CONTINUED ON ATTACHMENT: No  
ACTION OF BOARD ON: October 27, 2014 APPROVED AS RECOMMENDED: \_\_\_\_\_  
OTHER \_\_\_\_\_

**VOTE OF BOARD MEMBERS**

   UNANIMOUS  
AYES: \_\_\_\_\_  
NOES: \_\_\_\_\_  
ABSENT: \_\_\_\_\_  
ABSTAIN: \_\_\_\_\_

I HEARBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF AN ACTION TAKEN AND ENTERED ON THE MEETING RECORD OF THE CONSERVANCY GOVERNING BOARD ON THE DATE SHOWN.

ATTESTED \_\_\_\_\_  
*John Kopchik, SECRETARY OF THE EAST CONTRA COSTA COUNTY HABITAT CONSERVANCY*

BY: \_\_\_\_\_, DEPUTY